

HB 2134-3
(LC 2911)
3/6/17 (MBM/ps)

Requested by HOUSE COMMITTEE ON ENERGY AND ENVIRONMENT

**PROPOSED AMENDMENTS TO
HOUSE BILL 2134**

1 In line 2 of the printed bill, after the semicolon delete the rest of the line
2 and delete line 3 and insert “amending ORS 757.612; and prescribing an ef-
3 fective date.”.

4 Delete lines 5 and 6 and insert:

5 **“SECTION 1.** ORS 757.612 is amended to read:

6 “757.612. (1) There is established an annual public purpose expenditure
7 standard for electric companies and Oregon Community Power to fund new
8 cost-effective [*local*] energy conservation, new market transformation efforts,
9 the above-market costs of new renewable energy resources and new low-
10 income weatherization. The public purpose expenditure standard shall be
11 funded by the public purpose charge described in subsection (2) of this sec-
12 tion.

13 “(2)(a) Beginning on the date an electric company or Oregon Community
14 Power offers direct access to [*its*] retail electricity consumers, except resi-
15 dential electricity consumers, the electric company or Oregon Community
16 Power shall collect a public purpose charge from all of the retail electricity
17 consumers located within [*its*] **the electric company’s or Oregon Com-
18 munity Power’s** service area until January 1, 2026. Except as provided in
19 paragraph (b) of this subsection, the public purpose charge shall be equal to
20 three percent of the total revenues collected by the electric company, Oregon
21 Community Power or the electricity service supplier from [*its*] retail elec-

1 tricity consumers for electricity services, distribution **services**, ancillary
2 services, metering and billing, transition charges and other types of costs
3 included in electric rates on July 23, 1999.

4 “(b) For an aluminum plant that averages more than 100 average mega-
5 watts of electricity use per year, [*beginning on March 1, 2002,*] the electric
6 company or Oregon Community Power [*whose*], **whichever serves** territory
7 **that** abuts the greatest percentage of the site of the aluminum plant, shall
8 collect from the aluminum company a public purpose charge equal to one
9 percent of the total revenue from the sale of electricity services to the alu-
10 minum plant from any source.

11 “(3)(a) The Public Utility Commission shall establish rules implementing
12 the provisions of this section relating to electric companies and Oregon
13 Community Power.

14 “(b) [*Subject to paragraph (e)*] **Except as provided in paragraph (e)** of
15 this subsection, funds collected [*by an electric company or Oregon Community*
16 *Power*] through public purpose charges **under subsection (2) of this sec-**
17 **tion** shall be allocated as follows:

18 “(A) Sixty-three percent for new cost-effective **energy** conservation[,] **and**
19 new market transformation **efforts**.

20 “(B) Nineteen percent for the above-market costs of constructing and op-
21 erating new renewable energy resources with a nominal electric generating
22 capacity, as defined in ORS 469.300, of 20 megawatts or less.

23 “(C) Thirteen percent for new low-income weatherization.

24 “(D) Five percent [*shall be transferred to*] **for deposit in** the Housing and
25 Community Services Department Electricity Public Purpose Charge Fund
26 established by ORS 456.587 (1) [*and used*] for the purpose of providing grants
27 as described in ORS 458.625 (2).

28 “(c) The costs of administering subsections (1) to (6) of this section for
29 an electric company or Oregon Community Power shall be paid out of the
30 funds collected through public purpose charges. The commission may require

1 [that] an electric company or Oregon Community Power to direct funds col-
2 lected through public purpose charges to [the] state agencies responsible for
3 implementing subsections (1) to (6) of this section in order to pay the costs
4 of [administering such responsibilities] **administering subsections (1) to (6)**
5 **of this section.**

6 “(d) The commission shall direct the manner in which public purpose
7 charges are collected and spent by an electric company or Oregon Commu-
8 nity Power and may require an electric company or Oregon Community
9 Power to expend funds through competitive bids or other means designed to
10 encourage competition, except that funds dedicated for **new** low-income
11 weatherization shall be directed to the Housing and Community Services
12 Department [as provided in subsection (7) of this section] **for purposes re-**
13 **lated to new low-income weatherization.** The commission [may also direct
14 that] **may also require** funds collected [by an electric company or Oregon
15 Community Power] through public purpose charges to be paid to a nongov-
16 ernmental entity for investment in public purposes described in subsection
17 (1) of this section. Notwithstanding any other provision of this subsection:

18 “(A) **If an electric company collected the funds,** at least 80 percent
19 of the funds allocated for **new cost-effective energy** conservation shall be
20 spent within the service area of the electric company [that collected the
21 funds]; or

22 “(B) If Oregon Community Power collected the funds, at least 80 percent
23 of the funds allocated for **new cost-effective energy** conservation shall be
24 spent within the service area of Oregon Community Power.

25 “(e)(A) The first 10 percent of [the] funds collected [annually] **each year**
26 by an electric company or Oregon Community Power under subsection (2)
27 of this section shall be distributed to school districts that are located in the
28 service territory of the electric company or Oregon Community Power. The
29 funds shall be distributed to individual school districts according to the
30 weighted average daily membership (ADMw) of each school district for the

1 prior fiscal year as calculated under ORS 327.013. The commission shall es-
2 tablish by rule a methodology for distributing a proportionate share of funds
3 under this paragraph to school districts that are only partially located in the
4 service territory of the electric company or Oregon Community Power.

5 “(B) A school district that receives funds under this paragraph shall use
6 the funds first to pay for energy audits for schools located within the school
7 district. A school district may not expend additional funds received under
8 this paragraph on a school [*facility*] until an energy audit has been completed
9 for that school [*facility*]. To the extent practicable, a school district shall
10 coordinate with the State Department of Energy and incorporate federal
11 funding in complying with this paragraph. Following completion of an en-
12 ergy audit for an individual school, the school district may expend funds
13 received under this paragraph to implement the energy audit. Once an energy
14 audit has been conducted and completely implemented for each school within
15 the school district, the school district may expend funds received under this
16 paragraph for any of the following purposes:

17 “(i) Conducting **additional** energy audits. A school district shall conduct
18 an energy audit prior to expending funds on any other purpose authorized
19 under this paragraph unless the school district has performed an energy au-
20 dit within the three years immediately prior to receiving the funds.

21 “(ii) [*Weatherization*] **Weatherizing school district facilities** and up-
22 grading the energy efficiency of school district facilities.

23 “(iii) Energy conservation education programs.

24 “(iv) Purchasing electricity from environmentally focused sources [*and*].

25 “(v) Investing in renewable energy resources.

26 “(f) The commission may not establish a different public purpose charge
27 than the public purpose charge described in subsection (2) of this section.

28 “(g) If the commission [*directs*] **requires** funds collected through public
29 purpose charges to **be paid to** a nongovernmental entity, the entity shall:

30 “(A) Include on the entity’s board of directors an ex officio member des-

1 ignated by the commission, who shall also serve on the entity’s nominating
2 committee for filling board vacancies.

3 “(B) Require the entity’s officers and directors to provide an annual dis-
4 closure of economic interest to be filed with the commission on or prior to
5 April 15 of each calendar year for public review in a form similar to the
6 statement of economic interest required for public officials under ORS
7 244.060.

8 “(C) Require the entity’s officers and directors to declare actual and po-
9 tential conflicts of interest at regular meetings of the entity’s governing body
10 when such conflicts arise, and require an officer or director to abstain from
11 participating in any discussion or [*vote*] **voting** on any item where that of-
12 ficer or director has an actual conflict of interest. For the purposes of this
13 subparagraph, ‘actual conflict of interest’ and ‘potential conflict of interest’
14 have the meanings given those terms in ORS 244.020.

15 “(D) **Annually**, arrange for an independent auditor to audit the entity’s
16 financial statements [*annually*], and direct the auditor to file an audit opin-
17 ion with the commission for public review.

18 “(E) **Annually** file with the commission [*annually*] the entity’s budget,
19 action plan and quarterly and annual reports for public review.

20 “(F) At least once every five years, contract for an independent manage-
21 ment evaluation to review the entity’s operations, efficiency and effective-
22 ness, and direct the independent reviewer to file a report with the
23 commission for public review.

24 “(h) The commission may remove from the board of directors of a non-
25 governmental entity an officer or director who fails to provide an annual
26 disclosure of economic interest, or **who fails to declare an** actual or poten-
27 tial conflict of interest, as described in paragraph (g)(B) and (C) of this
28 subsection, [*in connection with*] **if the failure is connected to** the allocation
29 or expenditure of funds collected through public purpose charges and [*di-*
30 *rected*] **paid** to the entity.

1 “(4)(a) An electric company that satisfies its obligations under this sec-
2 tion [*shall have*]:

3 “(A) **Has** no further obligation to invest in **new cost-effective energy**
4 conservation, new market transformation or new low-income
5 weatherization, or to provide a commercial energy conservation services
6 program; and

7 “(B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

8 “(b) Oregon Community Power, for any period during which Oregon
9 Community Power collects a public purpose charge under subsection (2) of
10 this section:

11 “(A) [*Shall have*] **Has** no [*other*] **further** obligation to invest in **new**
12 **cost-effective energy** conservation, new market transformation or new
13 low-income weatherization, or to provide a commercial energy conservation
14 services program; and

15 “(B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

16 “(5)(a) A retail electricity consumer that uses more than one average
17 megawatt of electricity at any site in the prior year shall receive a credit
18 against public purpose charges billed by an electric company or Oregon
19 Community Power for that site. The amount of the credit shall be equal to
20 the total amount of qualifying expenditures for new **cost-effective** energy
21 conservation, not to exceed 68 percent of the annual public purpose charges,
22 and the above-market costs [*of purchases*] of new renewable energy resources
23 incurred by the retail electricity consumer, not to exceed 19 percent of the
24 annual public purpose charges, less administration costs incurred under **this**
25 **paragraph and paragraphs (b) and (c)** of this subsection. The credit may
26 not exceed, on an annual basis, the lesser of:

27 “(A) The amount of the retail electricity consumer’s qualifying expendi-
28 tures; or

29 “(B) The portion of the public purpose charge billed to the retail elec-
30 tricity consumer that is dedicated to new **cost-effective** energy conserva-

1 tion, new market transformation or the above-market costs of new renewable
2 energy resources.

3 “(b) To obtain a credit under **paragraph (a) of** this subsection, a retail
4 electricity consumer shall file with the State Department of Energy a de-
5 scription of the proposed conservation project or new renewable energy re-
6 source and a declaration that the retail electricity consumer plans to incur
7 the qualifying expenditure. The State Department of Energy shall issue a
8 notice of precertification within 30 days of receipt of the filing, if such filing
9 is consistent with **paragraph (a) of** this subsection. The credit may be taken
10 after a retail electricity consumer provides a letter from a certified public
11 accountant to the State Department of Energy verifying that the precertified
12 qualifying expenditure has been made.

13 “(c) Credits earned by a retail electricity consumer as a result of quali-
14 fying expenditures that are not used in one year may be carried forward for
15 use in subsequent years.

16 “(d)(A) A retail electricity consumer that uses more than one average
17 megawatt of electricity at any site in the prior year may request that the
18 State Department of Energy hire an independent auditor to assess the po-
19 tential for conservation investments at the site. If the independent auditor
20 determines there is no available conservation measure at the site that would
21 have a simple payback of one to 10 years, the retail electricity consumer
22 shall be relieved of 54 percent of its payment obligation for public purpose
23 charges related to the site. If the independent auditor determines that there
24 are potential conservation measures available at the site, the retail elec-
25 tricity consumer shall be entitled to a credit against public purpose charges
26 related to the site equal to 54 percent of the public purpose charges less the
27 estimated cost of available conservation measures.

28 “(B) A retail electricity consumer shall be entitled each year to the credit
29 described in this [*subsection*] **paragraph** unless a subsequent independent
30 audit determines that new conservation investment opportunities are avail-

1 able. The State Department of Energy may require that a new independent
2 audit be performed on the site to determine whether new conservation
3 measures are available, provided that the independent audits [*shall*] occur
4 no more than once every two years.

5 “(C) The retail electricity consumer shall pay the cost of the independent
6 audits described in this [*subsection*] **paragraph**.

7 “(6) Electric utilities and retail electricity consumers shall receive a fair
8 and reasonable credit for the public purpose expenditures of their energy
9 suppliers. The State Department of Energy shall adopt rules to determine
10 eligible expenditures and the [*methodology*] **method** by which such credits
11 are accounted for and used. The [*rules*] **State Department of Energy** also
12 shall adopt methods to account for eligible public purpose expenditures made
13 through consortia or collaborative projects.

14 “(7)(a) In addition to the public purpose charge provided under subsection
15 (2) of this section, an electric company or Oregon Community Power shall
16 collect funds for low-income electric bill payment assistance in an amount
17 determined under paragraph (b) of this subsection.

18 “[*(b) The commission shall establish the amount to be collected by each*
19 *electric company in calendar year 2008 from retail electricity consumers served*
20 *by the company, and the rates to be charged to retail electricity consumers*
21 *served by the company, so that the total anticipated collection for low-income*
22 *electric bill payment assistance by all electric companies in calendar year 2008*
23 *is \$15 million. In calendar year 2009 and subsequent calendar years, the com-*
24 *mission may not change the rates established for retail electricity consumers,*
25 *but the total amount collected in a calendar year for low-income electric bill*
26 *payment assistance may vary based on electricity usage by retail electricity*
27 *consumers and changes in the number of retail electricity consumers in this*
28 *state. In no event shall a retail electricity consumer be required to pay more*
29 *than \$500 per month per site for low-income electric bill payment assistance.]*

30 “(b) **The commission shall establish the amount to be collected by**

1 each electric company from retail electricity consumers, and the rates
2 to be charged by each electric company to retail electricity consumers,
3 so that the forecasted collection by all electric companies in calendar
4 year 2018 is \$20 million. In subsequent calendar years, the commission
5 may not decrease the rates below those established for calendar year
6 2018. The commission may temporarily adjust the rates if forecasted
7 collections or actual collections are less than \$20 million in any cal-
8 endar year. A retail electricity consumer may not be required to pay
9 more than \$500 per month per site for low-income electric bill payment
10 assistant.

11 “(c) Funds collected [by] **through** the low-income electric bill payment
12 assistance charge shall be paid into the Housing and Community Services
13 Department Low-Income Electric Bill Payment Assistance Fund established
14 by ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall
15 be used by the Housing and Community Services Department **solely** for [*the*
16 *purpose of funding*] **purposes related to** low-income electric bill payment
17 assistance[.] **and for the Housing and Community Services Department’s**
18 *cost of administering this subsection. [shall be paid out of funds collected by*
19 *the low-income electric bill payment assistance charge. Moneys deposited in the*
20 *fund under this paragraph shall be expended solely for low-income electric bill*
21 *payment assistance.] Funds collected [from] by an electric company or Oregon*
22 **Community Power under this subsection** shall be expended in the service
23 area of the electric company or Oregon Community Power from which the
24 funds are collected.

25 “(d)(A) The Housing and Community Services Department shall determine
26 the manner in which funds collected under this subsection will be allocated
27 by the **Housing and Community Services** Department to energy assistance
28 program providers for the purpose of providing low-income bill payment and
29 crisis assistance.

30 “(B) The **Housing and Community Services** Department, **in consulta-**

1 **tion with electric companies**, shall investigate and may implement alter-
2 native delivery models [*in consultation with electric companies*] to effectively
3 reduce service disconnections and related costs to retail electricity consum-
4 ers and electric utilities.

5 “(C) Priority assistance shall be directed to low-income electricity con-
6 sumers who are in danger of having their electricity service disconnected.

7 “(D) The **Housing and Community Services** Department shall maintain
8 records and provide those records upon request to an electric company,
9 Oregon Community Power and the Citizens’ Utility Board established under
10 ORS chapter 774 on a quarterly basis. Records maintained must include the
11 numbers of low-income electricity consumers served, the average amounts
12 paid **to low-income electricity consumers** and the type of assistance pro-
13 vided **to low-income electricity consumers**. Electric companies and
14 Oregon Community Power shall, if requested, provide the **Housing and**
15 **Community Services** Department with aggregate data relating to **low-**
16 **income electricity** consumers served on a quarterly basis to support pro-
17 gram development.

18 “(e) Interest on moneys deposited in the Housing and Community Services
19 Department Low-Income Electric Bill Payment Assistance Fund established
20 by ORS 456.587 (2) may be used to provide bill payment and crisis assistance
21 to electricity consumers whose primary source of heat is not electricity.

22 “(f) Notwithstanding ORS 757.310, the commission may allow an electric
23 company or Oregon Community Power to provide reduced rates or other **bill**
24 payment or crisis assistance or low-income program assistance to a low-
25 income household eligible for assistance under the federal Low Income Home
26 Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.

27 “(8) For purposes of this section, ‘retail electricity consumers’ includes
28 any direct service industrial consumer that purchases electricity without
29 purchasing distribution services from the electric utility.

30 “(9) For purposes of this section, [*amounts*] **funds** collected by Oregon

1 Community Power through public purpose charges are not considered moneys
2 received from electric utility operations.

3 **SECTION 2. This 2017 Act takes effect on January 2, 2018.**

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