

Senate Bill 260

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber, M.D., for State Department of Energy)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs State Department of Energy by rule to establish and administer high performance schools program within clean energy deployment program to support energy efficiency and clean energy projects in public schools. Authorizes uses of funds received by schools under program. Specifies factors for department's consideration of project applications.

Directs department by rule to establish and administer public schools grant program to support energy efficiency and clean energy projects in public schools not eligible to receive public purpose charge moneys. Authorizes certain uses of funds received under program.

Establishes Public Schools Grant Fund. Authorizes issuance of lottery bonds for biennium beginning July 1, 2015, that produce \$20 million in net proceeds and interest earnings to be deposited in fund. Authorizes department to use moneys in fund for public schools grant program.

Repeals high performance schools pilot program.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to funding for energy projects in schools; creating new provisions; amending ORS 470.050,
3 470.575, 470.800 and 470.810; repealing ORS 470.815 and sections 4 and 5, chapter 467, Oregon
4 Laws 2011; and declaring an emergency.

5 **Be It Enacted by the People of the State of Oregon:**

DEFINITIONS

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9 **SECTION 1.** ORS 470.050 is amended to read:

10 470.050. As used in this chapter, unless the context requires otherwise:

11 (1) "Alternative fuel project" means:

12 (a) Equipment, including vehicles that are not used primarily for personal, family or household
13 purposes, that is modified or acquired directly from a factory and that:

14 (A) Uses an alternative fuel including electricity, biofuel, gasohol with at least 20 percent de-
15 natured alcohol content, hydrogen, hythane, methane, methanol, natural gas, propane or any other
16 fuel approved by the Director of the State Department of Energy; and

17 (B) Produces lower exhaust emissions or is more energy efficient than equivalent equipment fu-
18 eled by gasoline or diesel; and

19 (b) A facility, including a fueling station, or equipment necessary to produce alternative fuel or
20 operate equipment that uses an alternative fuel.

21 (2) "Applicant" means an applicant for a loan to construct a small scale local energy project.

22 (3) "Base efficiency package" means the package of energy efficiency upgrades or renewable
23 energy projects for a property that, when energy savings, project repayment costs, tax or other in-
24 centives, loan offset grants and other relevant economic factors are considered, is estimated to not

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 increase the utility bill of the customer over the loan repayment term.

2 (4) "Committee" means the Small Scale Local Energy Project Advisory Committee created under
3 ORS 470.070.

4 (5) "Cooperative" means a cooperative corporation organized under ORS chapter 62.

5 (6) "Director" means the Director of the State Department of Energy appointed under ORS
6 469.040.

7 (7) "Eligible federal agency" means a federal agency or public corporation created by the federal
8 government that proposes to use a loan for a small scale local energy project. "Eligible federal
9 agency" does not include a federal agency or public corporation created by the federal government
10 that proposes to use a loan for a small scale local energy project to generate electricity for sale.

11 (8) "Eligible state agency" means a state officer, board, commission, department, institution,
12 branch or agency of the state whose costs are paid wholly or in part from funds held in the State
13 Treasury.

14 (9) "Energy efficiency and sustainable technology loan" means a loan for a small scale local
15 energy project that is repayable by means of:

16 (a) A charge included with the participant's utility customer account billing; or

17 (b) An alternative repayment method identified by the department and the borrower and speci-
18 fied in the loan agreement.

19 (10) "Energy Project Bond Loan Fund" means the fund established under ORS 470.580.

20 (11) "Energy Project Supplemental Fund" means the fund established under ORS 470.570.

21 (12) "Energy Revenue Bond Repayment Fund" means the fund established under ORS 470.585.

22 (13) "Energy savings projection" means an examination of the energy performance and site
23 characteristics of a property that, at a minimum, identifies:

24 (a) A base efficiency package; and

25 (b) Any additional optional measures that a customer is able to repay and that the sustainable
26 energy project manager believes to be feasible for the site.

27 (14) "Jobs, Energy and Schools Fund" means the fund established under ORS 470.575.

28 (15) "Loan" includes the purchase or other acquisition of evidence of indebtedness and money
29 used for the purchase or other acquisition of evidence of indebtedness.

30 (16) "Loan contract" means the evidence of indebtedness and all instruments used in the pur-
31 chase or acquisition of the evidence of indebtedness. For eligible federal or state agencies or mu-
32 nicipal corporations that are tax exempt entities, a loan contract may include a lease purchase
33 agreement with respect to personal property.

34 (17) "Loan offset grant" means moneys from the Jobs, Energy and Schools Fund that are used
35 to help offset the initial project costs or loan payments for energy efficiency, renewable energy and
36 energy conservation projects.

37 (18) "Loan repayment charge" means an amount charged to a utility customer account through
38 on-bill financing as a mechanism for the repayment of an energy efficiency and sustainable tech-
39 nology loan.

40 (19) "Municipal corporation" has the meaning given in ORS 297.405 and also includes any Indian
41 tribe or authorized Indian tribal organization or any combination of two or more of these tribes or
42 organizations acting jointly in connection with a small scale local energy project.

43 (20) "On-bill financing" means a mechanism for collecting the repayment of an energy efficiency
44 and sustainable technology loan through a utility customer account billing system.

45 (21) "Optional package" means measures for promoting energy efficiency or the use of renewable

1 energy:

2 (a) That are in addition to the measures described in the customer's base efficiency package;

3 (b) For which a customer has the ability to repay; and

4 (c) That the sustainable energy project manager believes to be feasible for the site.

5 (22) "Oregon business" means a sole proprietorship, partnership, company, cooperative, corpo-
6 ration or other form of business entity that is organized or authorized to do business under Oregon
7 law for profit.

8 (23) "Primary contractor" means a contractor that:

9 (a) Has entered into a contract with an owner of property for which a proposed small scale local
10 energy project will be located;

11 (b) Is responsible for the completion of the small scale local energy project;

12 (c) Undertakes to complete the small scale local energy project; and

13 (d) Is responsible for any subcontractors performing work on the small scale local energy
14 project.

15 (24) "Public Purpose Fund Administrator" means the entity designated by the Public Utility
16 Commission to administer moneys collected by a company through the public purpose charge de-
17 scribed under ORS 757.612.

18 **(25) "Public school facility" includes publicly owned facilities that may be used by one or
19 more school districts for classroom instruction, multipurpose activities, libraries or other
20 educational purposes for students in kindergarten through grade 12.**

21 [(25)] **(26)** "Recycling project" means a facility or equipment that converts waste into a new and
22 usable product.

23 [(26)] **(27)** "Small business" means:

24 (a) An Oregon business that is:

25 (A) A retail or service business employing 50 or fewer persons at the time the loan is made; or

26 (B) An industrial or manufacturing business employing 200 or fewer persons at the time the loan
27 is made; or

28 (b) An Oregon subsidiary of a sole proprietorship, partnership, company, cooperative, corpo-
29 ration or other form of business entity for which the total number of employees for both the sub-
30 sidiary and the parent sole proprietorship, partnership, company, cooperative, corporation or other
31 form of business entity at the time the loan is made is:

32 (A) Fifty or fewer persons if the subsidiary is a retail or service business; and

33 (B) Two hundred or fewer if the subsidiary is an industrial or manufacturing business.

34 [(27)] **(28)** "Small scale local energy program loan" means a loan for a small scale local energy
35 project other than an energy efficiency and sustainable technology loan.

36 [(28)] **(29)** "Small scale local energy project" means any of the following:

37 (a) A system, mechanism or series of mechanisms located primarily in Oregon that directly or
38 indirectly uses or enables the use of, by the applicant or another person, renewable resources in-
39 cluding, but not limited to, solar, wind, geothermal, biomass, waste heat or water resources to
40 produce energy, including heat, electricity and substitute fuels, to meet a local community or re-
41 gional energy need in this state.

42 (b) A system, mechanism or series of mechanisms located primarily in Oregon or providing
43 substantial benefits to Oregon that directly or indirectly conserves energy or enables the conserva-
44 tion of energy by the applicant or another person, including energy used in transportation.

45 (c) A recycling project.

1 (d) An alternative fuel project.

2 (e) An improvement that increases the production or efficiency, or extends the operating life,
 3 of a system, mechanism, series of mechanisms or project otherwise described in this subsection, in-
 4 cluding but not limited to restarting a dormant project.

5 (f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility
 6 that directly or indirectly reduces the amount of energy needed for the construction and operation
 7 of the facility and that meets the sustainable building practices standard established by the State
 8 Department of Energy by rule. For purposes of this paragraph, “system, mechanism or series of
 9 mechanisms” includes related and integrated upgrades to attain compliance with standards set in
 10 the State of Oregon Structural Specialty Code and Fire and Life Safety Code, and seismic safety
 11 upgrades.

12 (g) A project described in paragraphs (a) to (f) of this subsection, whether or not the existing
 13 project was originally financed under this chapter, together with any refinancing necessary to re-
 14 move prior liens or encumbrances against the existing project.

15 (h) A project described in paragraphs (a) to (g) of this subsection that conserves energy or
 16 produces energy by generation or by processing or collection of a renewable resource.

17 [(29)] (30) “Small Scale Local Energy Project Administration and Bond Sinking Fund” means the
 18 fund created under ORS 470.300.

19 [(30)] (31) “Small Scale Local Energy Project Loan Fund” means the loan fund created by Arti-
 20 cle XI-J of the Oregon Constitution and appropriated to the State Department of Energy under ORS
 21 470.130.

22 [(31)] (32) “Sustainable energy project manager” means the organization responsible for pro-
 23 moting the energy efficiency and sustainable technology loan program or the clean energy deploy-
 24 ment program and related incentives for energy efficiency and renewable energy at the
 25 neighborhood and community level.

26 [(32)] (33) “Utility service territory” means the allocated territory in which a utility subject to
 27 this chapter provides a utility service. For the purposes of this subsection, “allocated territory” and
 28 “utility service” have the meanings given those terms in ORS 758.400.

29
 30 **HIGH PERFORMANCE SCHOOLS PROGRAM**

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 32 **SECTION 2. ORS 470.815 and sections 4 and 5, chapter 467, Oregon Laws 2011, are re-**
 33 **pealed.**

34 **SECTION 3.** ORS 470.810 is amended to read:

35 470.810. (1) The State Department of Energy shall establish the clean energy deployment pro-
 36 gram to provide grants and loans to support energy efficiency or clean energy projects in this state.
 37 The department [*shall*] **may** establish [*criteria for qualifications of the projects by rule*] **by rule re-**
 38 **quirements for the administration of the program.**

39 [(2)(a) *The department may use funds from the Jobs, Energy and Schools Fund and the Clean*
 40 *Energy Deployment Fund to provide loans and grants to school districts that have projects to*
 41 *weatherize, upgrade and retrofit kindergarten through grade 12 public schools in this state, in order*
 42 *to improve energy efficiency.*]

43 [(b) *A school district that finances a project through the clean energy deployment program may not*
 44 *self-perform work constituting more than five percent of the total cost of the project being financed.*]

45 [(c) *All school projects financed pursuant to paragraph (a) of this subsection through the clean*

1 *energy deployment program are deemed to be public works projects and are subject to the prevailing*
 2 *wage requirements of ORS 279C.800 to 279C.870.]*

3 [(3)] (2) The department may contract for the implementation of the clean energy deployment
 4 program in all or parts of this state with a sustainable energy project manager as defined in ORS
 5 470.050.

6 **SECTION 4. Sections 5 to 7, 10 and 11 of this 2015 Act are added to and made a part of**
 7 **ORS chapter 470.**

8 **SECTION 5. (1) The State Department of Energy shall by rule establish a high perform-**
 9 **ance schools program within the clean energy deployment program established in ORS**
 10 **470.810 to support energy efficiency and clean energy projects at public schools in this state.**
 11 **The department may establish requirements for the administration of the program including,**
 12 **but not limited to, allocation of funds to participating projects, criteria for qualifications of**
 13 **the projects and record keeping and reporting.**

14 (2) The department may use funds from the Jobs, Energy and Schools Fund and the Clean
 15 Energy Deployment Fund to provide loans and grants to kindergarten through grade 12
 16 public schools and school districts to identify and implement projects to weatherize, upgrade
 17 and retrofit public school facilities and bus fleets, in order to improve energy efficiency.

18 (3) A public school or school district that finances a project through the high perform-
 19 ance schools program may not self-perform work constituting more than five percent of the
 20 total cost of the project being financed.

21 (4) All school projects financed pursuant to subsection (2) of this section are deemed to
 22 be public works projects and are subject to the prevailing wage requirements of ORS 279C.800
 23 to 279C.870.

24 (5) In administering the high performance schools program, the department may provide
 25 technical assistance and information to help public schools and school districts make in-
 26 formed decisions about energy saving projects.

27 **SECTION 6. (1) Projects financed through the high performance schools program estab-**
 28 **lished under section 5 of this 2015 Act must be designed to improve energy efficiency, de-**
 29 **crease fuel costs, increase use of alternative fuels or decrease emissions of air contaminants.**

30 (2) Public schools and school districts that participate in the high performance schools
 31 program established under section 5 of this 2015 Act may expend funds received under the
 32 program for any of the following purposes:

33 (a) Weatherizing and upgrading the energy efficiency of public school facilities;

34 (b) Conducting energy audits of public school facilities;

35 (c) Energy conservation training for public school facilities staff;

36 (d) Commissioning, recommissioning and retrocommissioning public school facilities;

37 (e) Retrofitting school bus fleets to operate on compressed natural gas or other alterna-
 38 tive fuels such as propane or to operate with high-efficiency types of engines such as hybrid
 39 electric engines;

40 (f) Replacing school bus fleets with school buses that operate on compressed natural gas
 41 or other alternative fuels such as propane or that operate with high-efficiency types of en-
 42 gines such as hybrid electric engines; or

43 (g) Paying for administrative costs incurred by the public school or school district to
 44 contract and oversee implementation of the activities authorized by this subsection.

45 (3) School districts may finance the projects described in this section by:

- 1 (a) Paying directly for the projects;
- 2 (b) Receiving lower interest loans from the Clean Energy Deployment Fund or the Small
- 3 Scale Local Energy Project Loan Fund, supported by:
- 4 (A) Moneys from the Jobs, Energy and Schools Fund;
- 5 (B) Public purpose charges directed to a school district in areas served by investor-owned
- 6 utilities under ORS 757.612;
- 7 (C) Qualified Energy Conservation Bonds issued under the Energy Improvement and Ex-
- 8 tension Act of 2008 or other federal loan programs; or
- 9 (D) Revenues generated by the savings in energy costs resulting from the energy effi-
- 10 ciency improvements;
- 11 (c) Issuing general obligation bonds, subject to the bond election requirements under ORS
- 12 328.210; or
- 13 (d) Using any other source of moneys.

14 **SECTION 7. (1)** The factors by which the State Department of Energy shall consider ap-
 15 plications from public schools and school districts for projects to be financed through the
 16 high performance schools program established under section 5 of this 2015 Act shall include,
 17 but are not limited to:

- 18 (a) The comprehensiveness of the project improvements, with special attention given to
- 19 improvements designed to attain compliance with standards set in the State of Oregon
- 20 Structural Specialty Code and Fire and Life Safety Code and also to improve seismic safety
- 21 of school buildings;
- 22 (b) Geographic diversity;
- 23 (c) The use of matching funds from other governmental and private sources;
- 24 (d) The timeliness of the projects;
- 25 (e) Whether the projects are supported by an energy management plan adopted by the
- 26 public school or school district that includes a program for monitoring and verifying energy
- 27 cost savings from the projects;
- 28 (f) Whether the projects include retrofit or replacement of school bus fleets to operate:
- 29 (A) On compressed natural gas or other alternative fuels such as propane; or
- 30 (B) With high-efficiency types of engines such as hybrid electric engines;
- 31 (g) The amount of cost savings generated by the proposed improvements; and
- 32 (h) The extent to which projects incorporate ongoing measurement, verification, report-
- 33 ing and guarantees of actual energy use.

34 (2) Before approving a project under this section that includes elements unrelated to
 35 energy efficiency and that is designed to attain compliance with standards set in the State
 36 of Oregon Structural Specialty Code and Fire and Life Safety Code and to improve seismic
 37 safety of school buildings, the State Department of Energy must find that:

- 38 (a) The project showcases new or improved technologies or designs that promise cost-
- 39 effective energy efficiency if adopted by the marketplace, including elements unrelated to
- 40 energy efficiency that are practically inseparable from the project, and would not receive
- 41 adequate financing unless those unrelated elements are also eligible for financing as part of
- 42 the project; or
- 43 (b) The elements unrelated to energy efficiency are closely integrated with the energy
- 44 efficiency improvements within the project, and elimination of these elements would result
- 45 in significant additional expense or delays in completing the project.

SECTION 8. ORS 470.575 is amended to read:

470.575. (1) The Jobs, Energy and Schools Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Jobs, Energy and Schools Fund shall be credited to the Jobs, Energy and Schools Fund. Moneys in the fund are continuously appropriated to the State Department of Energy for use as provided in this section.

(2) The fund shall consist of any moneys directed by law, gift, grant or donation to the fund and moneys from base efficiency package fees collected pursuant to ORS 470.655.

(3) The department shall use fund moneys:

(a) To promote energy efficiency, renewable energy and energy conservation projects, including the clean energy deployment program established in ORS 470.810 **and the high performance schools program established in section 5 of this 2015 Act**, that would otherwise result in a higher overall cost to the applicant when energy costs and the financing and repayment costs for the project are considered, by using the fund moneys to help reduce the overall financing costs associated with related projects; or

(b) To transfer to an appropriate fund for carrying out any purpose under this chapter specified as a condition of a gift, grant or donation.

SECTION 9. ORS 470.800 is amended to read:

470.800. (1) The Clean Energy Deployment Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Clean Energy Deployment Fund shall be credited to the Clean Energy Deployment Fund. Moneys in the fund are continuously appropriated to the State Department of Energy for use as provided in ORS 470.810 **and section 5 of this 2015 Act**.

(2) The department may accept grants, donations, contributions or gifts from any source for deposit in the Clean Energy Deployment Fund.

PUBLIC SCHOOLS GRANT PROGRAM

SECTION 10. (1) **The State Department of Energy shall by rule establish and administer a public schools grant program to support energy efficiency and clean energy projects in public schools not eligible to receive public purpose charge moneys under ORS 757.612. The department may establish policies and procedures for the administration and enforcement of the public schools grant program including, but not limited to, definition of eligible schools, criteria for project eligibility and prioritization and allocation of funds to schools for eligible projects.**

(2) To be eligible for funding through the grant program established under this section, a school must be a kindergarten through grade 12 public school that is not eligible to receive public purpose charge moneys under ORS 757.612.

(3) The department may use funds from the Public Schools Grant Fund in the following ways as part of the grant program established under this section:

(a) To issue grants for use by eligible schools:

(A) Directly to an eligible school;

(B) To the school district of an eligible school; or

(C) To the electric utility that services an eligible school;

(b) To lower the cost of financing for projects at eligible schools;

(c) To contract for energy audits and other services provided to eligible schools; and

1 (d) To pay the department’s cost of administering the public schools grant program.

2 (4) Public schools and school districts that receive funding under this section may expend
3 the funds for the following purposes:

4 (a) Weatherizing and upgrading the energy efficiency of public school facilities;

5 (b) Conducting energy audits of public school facilities;

6 (c) Energy conservation training for public school facilities staff;

7 (d) Commissioning, recommissioning and retrocommissioning public school facilities;

8 (e) Retrofitting school bus fleets to operate on compressed natural gas or other alterna-
9 tive fuels such as propane or to operate with high-efficiency types of engines such as hybrid
10 electric engines;

11 (f) Replacing school bus fleets with school buses that operate on compressed natural gas
12 or other alternative fuels such as propane or that operate with high-efficiency types of en-
13 gines such as hybrid electric engines; or

14 (g) Paying for administrative costs incurred by the public school or school district to
15 contract and oversee implementation of the activities authorized by this section.

16
17 **PUBLIC SCHOOLS GRANT FUND**

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19 **SECTION 11.** (1) The Public Schools Grant Fund is established in the State Treasury,
20 separate and distinct from the General Fund. Interest earned by the Public Schools Grant
21 Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the
22 State Department of Energy to be used for the public schools grant program established in
23 section 10 of this 2015 Act.

24 (2) The department may accept grants, donations, contributions or gifts from any source
25 for deposit in the Public Schools Grant Fund.

26 **SECTION 12.** (1) For the biennium beginning July 1, 2015, at the request of the Oregon
27 Department of Administrative Services, after the department consults with the State De-
28 partment of Energy, the State Treasurer is authorized to issue lottery bonds pursuant to
29 ORS 286A.560 to 286A.585 in an amount that produces \$20 million in net proceeds and interest
30 earnings for the purposes described in subsection (2) of this section, plus an additional
31 amount estimated by the State Treasurer to be necessary to pay bond-related costs.

32 (2) Net proceeds of lottery bonds issued under this section and interest earnings must
33 be transferred to the State Department of Energy in an amount sufficient to provide \$20
34 million in net proceeds and interest earnings for deposit in the Public Schools Grant Fund
35 established in section 11 of this 2015 Act for the purposes described in section 10 of this 2015
36 Act.

37 (3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs,
38 further economic development, finance public education or restore and protect parks,
39 beaches, watersheds and native fish and wildlife, and is authorized based on the following
40 findings:

41 (a) Increasing and promoting energy efficiency in structures and operations statewide
42 increases economic development and energy conservation and expands opportunities for new
43 and emerging industries in Oregon.

44 (b) The projects made possible through increased funding of energy efficiency programs
45 create jobs and further economic development.

MISCELLANEOUS

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SECTION 13. The unit captions used in this 2015 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2015 Act.

SECTION 14. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.
