

# Oregon Department of **ENERGY**

## 2017 Legislative Report



OREGON  
DEPARTMENT OF  
ENERGY

# LEGISLATIVE TITLE – 2017

## TABLE OF CONTENTS

<b>SENATE BILLS – Passed</b> .....	1
<b>HOUSE BILLS – Passed</b> .....	6
<b>SENATE BILLS – Not Passed</b> .....	12
<b>HOUSE BILLS – Not Passed</b> .....	15
<b>ENERGY TAX CREDIT BILLS – Not Passed</b> .....	17

# LEGISLATIVE TITLE – 2017

## SENATE BILLS – Passed

### **83 – Judicial Review of Oregon Public Utility Commission Orders**

Effective date: Jan. 1, 2018

Chapter: 312

SB 83 changes the process for judicial appeal of Public Utility Commission orders. Specifically, the jurisdiction for judicial review of contested cases is conferred upon the Court of Appeals, and the jurisdiction for judicial review of orders other than contested cases is conferred upon the Circuit Court for Marion County and the circuit court for the county in which the petitioner resides or has a principal business office. It limits the parties who may seek a judicial review in a contested case only to parties in the contested case before the commission. For contested cases only, the petitioner for judicial review may ask for a stay for cause shown until the final disposition of the appeal. These amendments apply to administrative proceedings pending on, or commencing on or after January 1, 2018.

### **99 – Senate Confirmation for Director Department of Energy**

Effective date: Jan. 1, 2018

Chapter: 314

The Department of Energy introduced this bill. SB 99 amends ORS 469.040 to make the Governor's appointment of the director for the Department of Energy subject to confirmation by the Senate.

### **100 – State Home Oil Weatherization Program**

Effective Date: Oct. 6, 2017

Chapter: 727

The Department of Energy introduced this bill. SB 100 transfers administration of the State Home Oil Weatherization (SHOW) program from ODOE to the Housing and Community Services Department (OHCS) on January 1, 2018. The bill transfers all duties, functions, and powers for the SHOW program under ORS 469.673 to 469.683 along with all of the records and property related to these functions. The unexpended fund balances for the SHOW program are transferred and made available for expenditure by OHCS to administer and perform the duties of the program.

SB 100 also repeals the fuel oil dealer program (ORS 469.675, 469.677 and 469.679). The fuel oil dealer program was designed in 1981 and required fuel oil dealers to submit a residential energy conservation program to ODOE that outlined how fuel oil customers would be provided information about energy

# LEGISLATIVE TITLE – 2017

conservation measures, financing, and audits. The program also required ODOE to contract for services to provide assistance and technical advice.

The bill updates the SHOW program's authorizing statute by removing definitions not used or out of date such as "energy audit," and updates the statute to cite the term and definition under the Home Energy Performance Score System (ORS 469.703). The bill also adds necessary definitions such as "contractor" to clarify that it includes a community action agency designated to receive funds from the SHOW program on behalf of low-income households. For the definition of "dwelling," the bill adds the word "primarily" to require that the dwelling receive space heating primarily from a fuel oil dealer.

The bill clarifies that funds received through the petroleum supplier assessment may be used for the administration of the SHOW program and the petroleum supplier assessment, and clarifies general rulemaking authority for the program. Lastly, the bill renames the funding account to the "Oil-Heated Dwellings Energy Account," removing the word "audit" from the name.

## **106 – Creation of a Public Records Advocate**

Effective date: Aug. 15, 2017

Chapter: 728

SB 106 creates the office of the Public Records Advocate and the Public Records Advisory Council. The Public Records Advocate will facilitate the resolution of public records request disputes involving denials of requests, denials of fee waivers, and cost estimates. The Public Records Advocate shall be appointed by the Governor from a panel of three members of the Oregon State Bar as nominated by the Public Records Advisory Council. A member of the public may opt out of dispute resolution. However, if a member of the public engages in dispute resolution, and is found to not be acting in good faith, the public body can deny the request. If the public body is found to not be acting in good faith, the member of the public may be awarded costs and attorney fees for pursuing the request. A decision by the Public Records Advocate that the person or public body is not acting in good faith is appealable to the Circuit Court of Marion County. If an agreement is made, the Public Records Advocate will prepare a written agreement memorializing the agreement.

The Public Records Advocate can assert any public records request exemption that the public body could assert for documents submitted to resolve a dispute.

The Public Records Advocate shall train state agencies and local governments on responding to public records requests, and provide non-binding written guidance to public bodies concerning responses to public records requests.

The Public Records Advisory Council will be chaired by the Public Records Advocate and be made up of representatives of the executive branch, local governments, the media, the legislature, and other interested parties. The Public Records Advisory Council will survey public bodies regarding their practices related to responding to public records requests, compare those practices to similar practices

# LEGISLATIVE TITLE – 2017

in other jurisdictions, review exemptions to public records requests, suggest changes to public records request law, and make rules for the office of the Public Records Advocate. By December 1 of every even numbered year, the Public Records Advisory Council shall submit a report to the Governor and the Legislature detailing their finding since their last report.

## **328 – Biomass Facilities Eligible for Renewable Energy Certificates**

Effective date: June 6, 2017

Chapter: 249

SB 328 would allow biomass facilities described in ORS 469A.020 (5), located in the state of Oregon, and with a commercial operation date before January 1, 1995, to generate renewable energy certificates (RECs) that would be eligible for the Oregon renewable portfolio standard (RPS), regardless of whether the facility was registered with the Western Renewable Energy Generation Identification System (WREGIS) on or after January 1, 2011.

## **334 – Biogas and Renewable Natural Gas Reporting**

Effective date: Oct. 6, 2017

Chapter: 328

SB 334 requires the Department of Energy, in coordination with an ODOE-appointed advisory committee, to conduct a detailed inventory of all potential sources of biogas and renewable natural gas (RNG) available to the state of Oregon. The bill also requires ODOE, with advisory committee input, to maintain and periodically update the inventory.

The bill asks for ODOE to estimate the potential production quantities of biogas and RNG within the state and the energy content of biogas available at each site. ODOE must also document the location of existing biogas production facilities and assess the supply chain infrastructure associated with each site. The bill also requires an analysis of current technology for converting biomass to biogas, and for processing biogas to RNG.

Further requirements in the bill include identifying technical, market, policy, and regulatory barriers to developing and using biogas and RNG as a means toward providing the greatest, feasible reductions in greenhouse gas emissions and improvements in air quality.

The bill instructs ODOE to establish policies to promote RNG, and to submit a report on an initial inventory of potential biogas and renewable natural gas resources available to the state to the appropriate interim committees of the Legislative Assembly by September 15, 2018.

# LEGISLATIVE TITLE – 2017

## **339 – Small-Scale Renewable Energy Projects**

Effective date: Jun. 22, 2017

Chapter: 452

SB 339 modifies the small-scale community based renewable energy requirement under ORS 469A.210, which requires investor-owned utilities in Oregon to provide eight percent of their aggregate electrical capacity from small-scale community based renewable energy projects with a nameplate capacity of 20 megawatts (MW) or less and/or from biomass cogeneration facilities by 2025. The bill does not apply to investor-owned utilities serving fewer than 25,000 retail electricity customers in Oregon.

The bill clarifies that eligible facilities with a capacity of 20 megawatts (MW) or less must generate electricity using an Oregon renewable portfolio standard (RPS) eligible fuel source. It also clarifies for qualifying biomass facilities, regardless of their nameplate capacity, only 20 MW of that capacity per year may be used to comply with the small-scale community based renewable energy requirement. The bill makes it clear that this is not a restriction on the size of the biomass cogeneration facility, but on the capacity a facility of any size may count toward the total annual requirement.

## **481 – Public Records Request Responses**

Effective date: Jan. 1, 2018

Chapter: 456

SB 481 establishes requirements that public bodies must adhere to when responding to written public records requests. The bill requires public bodies acknowledge a request within five business days and state whether or not the public body is the custodian of the record. The public body must fulfill the request or provide an estimated completion date within 10 business days after the date on which the public body is required to acknowledge the request. For the purpose of responding to public records requests, the bill defines business days to exclude days in which the office is not staffed.

The timelines for responding to public records requests are suspended for any time period in which the public body has provided an estimate and is awaiting payment or has made an inquiry to clarify the scope or intent of the PRR. The bill provides public bodies with an exception when compliance within the defined response period is “not reasonably possible.” The response must state the specific reason for an exemption and include a statement that the requestor may seek review of the public body’s determination of exemption. The bill also provides that if a requester does not pay within 60 days of an estimate being sent out or does not respond within 60 days to an effort to clarify the request, the public body shall close the request. The bill also allows requesters to challenge untimely responses or estimated completion dates.

SB 481 requires the Attorney General to maintain a catalog of exemptions to public records disclosure requirements. It also relieves the public body from liability for damages for the improper release of public records if that release was done in good faith and not otherwise prohibited by a court order,

# LEGISLATIVE TITLE – 2017

state, or federal law. Further, it allows a public body to assert privilege on a document, even after publicly releasing it pursuant to a public records request.

## **634 – Woody Biomass Alternative to Green Energy Technology**

Effective Date: Oct. 6, 2017

Chapter: 735

SB 634 adds woody biomass energy technology to ORS 279C.527 and ORS 279C.528 and allows it to be used as an alternative to green energy technology. Currently all public bodies in Oregon must invest 1.5 percent of the total contract cost for new construction or remodeled projects of a certain size in green energy technologies and use the energy generated by the technology on-site. Woody biomass will join solar and geothermal technologies to meet these requirements.

The bill allows the use of woody biomass energy technology for space or water heating, or as a combined heat and power system, provided the boiler has a lower heating value combustion efficiency rating of at least 80 percent.

The bill defines woody biomass energy technology as a system that uses, as a fuel, material from trees and woody plants, such as limbs, tops, needles, leaves, and other woody parts, that grow in a forest, woodland, farm rangeland, or wildland that borders an urban area, and is a by-product of forest management, agriculture, ecosystem restoration, or fire prevention or related activities. It further states that woody biomass does not include wood pieces that have been treated with creosote, pentachlorophenol, chromated copper arsenate, or other chemical preservatives or municipal solid waste.

Woody biomass energy technology is allowed to be constructed as an alternative to green energy technology provided that the woody biomass energy technology creates new generating capacity that was not in existence prior to the date of the original project building permit and the contracting agency has considered the potential costs of the woody biomass energy technology. The facility that will use the woody biomass energy technology also must be located in an area that complies with DEQ particulate matter air quality standards, or if constructed in an area that does not comply with DEQ particulate matter air quality standards, uses pelletized woody biomass fuel or produces particulate matter at the same level as a system that uses pelletized woody biomass for fuel.

The Department of Environmental Quality also may require additional emissions control technologies or specifications before the woody biomass energy technology can be considered for a public building project.

Woody biomass energy technology has the same reporting requirements to the Oregon Department of Energy as green energy technology has and also has the same deferral requirements as green energy technology has.

# LEGISLATIVE TITLE – 2017

## **1008 – Diesel Engine Incentive Program**

Effective date: Aug. 15, 2017

Chapter: 742

SB 1008 authorizes the Department of Environmental Quality to deposit VW Environmental Mitigation Trust Agreement funds into the Clean Diesel Fund and to use the funds for grants for the purpose of reducing nitrogen oxide emissions from diesel engines in school buses.

DEQ shall award grants to owners and operators school buses powered by diesel engines and operating in Oregon. Awards will begin with median model year school buses and then add adjoining years until at least 450 school buses have been served. Each grant amount shall be \$50,000 or 30 percent of the cost to purchase a school bus that meets State Board of Education requirements. Alternatively a grant may be awarded for up to 100 percent of the cost to retrofit a school bus with emissions-reducing parts or technology that results in a reduction of diesel particulate matter emissions by at least 85 percent. The bill establishes requirements relating to the useful life for each bus and operation within Oregon's borders.

Additionally, the bill makes definitional changes to give more clarity to rules for the Oregon Clean Diesel Program. Other notable additions include making the replacement of a diesel vehicle an eligible project, and including recycling as an eligible way to scrap a vehicle.

The Environmental Quality Commission shall adopt rules for the program. The total VW Mitigation funds allotment for Oregon comes to nearly \$73 million. School bus diesel emission-reducing project awards are estimated to cost \$18 million.

## **HOUSE BILLS – Passed**

### **HJM 5 – Hanford Memorial**

Effective date:

House Joint Memorial 5 urges the Congress of the United States to continue to appropriate and expend funds to support the continued cleanup of radioactive and chemical contaminants at the Hanford Nuclear Site, with a specific focus on expansion of the existing ground water treatment systems.

A copy of the memorial is sent to the President of the United States, the Senate Majority Leader, and the Speaker of the House of Representatives and each member of the Oregon Congressional Delegation.

# LEGISLATIVE TITLE – 2017

## 2017 – Transportation Investments

Effective date: Oct. 6, 2017

Chapter: 750

HB 2017 is a revenue raising transportation investment bill that includes \$5.3 billion in new taxes and fees. The bill contains a number of key policies and investments. The bill raises \$227 million for the State Highway Fund in 2018, growing to \$495 million in the first year of full implementation of all taxes and fees in 2024. The resources will be split between the Oregon Department of Transportation and local governments.

High-level key components include:

- Accountability – creates a high level of accountability and transparency around the use of funds and requires oversight by the Oregon Transportation Commission.
- Highway programs – significant investment through new taxes and fees.
- Public transportation – a new 0.1 percent payroll tax will raise \$109 million in 2019 for distribution to providers in rural and urban communities to improve public transportation services.
- *ConnectOregon* – changes in the program will split it into two components, one similar to the traditional grant program and one focused on projects of statewide significance. Transit has been removed from eligibility. All 2017-2019 funds have been allocated within the bill to specific projects; and the bill dedicates the new bicycle excise tax, Lottery funds from Oregon Parks and Recreation Department, and a portion of the vehicle dealer privilege tax to the *ConnectOregon* fund.
- Local programs – Small Cities program will be expanded and a new Safe Routes to Schools infrastructure program is created.
- Value pricing – the OTC will develop a plan for value pricing on Interstate 205 and Interstate 5 and seek approval from the Federal Highway Administration to implement congestion pricing.

Areas of specific interest to the Oregon Department of Energy:

- The OTC is required to adopt a statewide strategy on approaches to reduce greenhouse gas emissions in the transportation section. The OTC must consult and cooperate with other stakeholders including state agencies.
- The bill creates the Joint Committee on Transportation, consisting of five members of the Senate and five from the House, and they are given the authority to consult with stakeholders, including state agencies.
- Creates two electric vehicle (EV) rebates that build on national best practices – (1) EV Rebate and (2) Charge Ahead EV Rebate for low- and moderate-income Oregonians in areas of the state with poor air quality.

# LEGISLATIVE TITLE – 2017

- This EV rebate program are designed to accelerate EV sales, and the Charge Ahead EV Rebate specifically targets investments in communities most impacted by air quality contaminants attributable to motor vehicles.
  - Funded through the vehicle privilege tax and does not use general funds
  - Raises \$12 million each year for six years, totaling \$72 million over the life of the program
  - At least 10 percent of these funds must be used for the Charge Ahead EV Rebate for low- and moderate-income Oregonians
  - Rebates can only be used for vehicles that cost less than \$50,000
    - EV Rebate for up to \$2500 for purchase or lease of a new EV or plug-in hybrid with battery capacity of 10kw or more and up to \$1500 for purchase or lease of a new EV or plug-in hybrid with battery capacity of less than 10kw
    - Charge Ahead EV Rebate for up to \$2500 for purchase or lease of a new or used battery EV by eligible low- and moderate-income Oregonians. For a new battery EV, the Charge Ahead EV Rebate can be combined with the EV Rebate for up to \$5000
- The Charge Ahead EV Rebate Program addresses poor air quality areas of the state and is provided for low- and moderate-income Oregonians to replace older, less efficient vehicles with new or used EVs that are purchase or leased.
- The Low Carbon Fuel Standard is modified to create provisions for program exemptions, and deferrals in cases of inadequate resource forecasts or abnormal market behavior. The Department of Administrative Services and Department of Environmental Quality will develop a fuel supply forecast to project fuel availability to meet program compliance. A year-end Credit Clearance Market must be held annually and credits will be capped at a maximum price of \$200 per credit for 2018 with adjustments for inflation in future years. DEQ is responsible for an annual calculation for the average cost or cost savings due to the program for gasoline and diesel and shall provide data on greenhouse gas emissions reductions. DEQ will post information annually on its website.

## **2066 – Omnibus Tax Credit bill**

Effective date: Oct. 6, 2017

Chapter: 610

HB 2066 is an omnibus tax credit bill relating to several tax expenditures and new provisions. It specifically addresses reservation enterprise zones, affordable housing lenders, biofuels and biomass, rural medical providers, corporate minimum taxes, employee training, general business taxes, and enterprise zone tax exemptions.

As HB 2066 relates to the Oregon Department of Energy, it sunsets the biomass tax credit program in its entirety at the end of tax year 2017. It creates a new tax credit program at the Oregon Department of Agriculture for bovine manure that is collected and used in Oregon as biofuel, or to produce biofuel. The

# LEGISLATIVE TITLE – 2017

program will run for tax years 2018 through 2021, is limited to \$5 million per tax year, and includes provisions for ODA to collect fees, undertake rulemaking proceedings, report data to the Department of Revenue about the tax credits issued, and creates the ability to revoke and reclaim the tax credits due to fraud, misrepresentation, mistakes or miscalculation.

## **2111 – Solar Access in Planned Communities**

Effective date: Jan. 1, 2018

Chapter: 282

HB 2111 would make provisions in a declaration or by-laws of a planned community void and unenforceable if they prohibited a homeowner from installing or using solar panels for obtaining solar access. The bill allows a property owner to petition to have solar prohibitions removed from existing declarations or bylaws. The bill also allows a homeowners' association to adopt and enforce provisions that impose reasonable size, placement, or aesthetic requirements for the installation or use of solar panels.

## **2132 – Expansion of Property Assessed Clean Energy Finance Programs**

Effective date: Oct. 6, 2017

Chapter: 283

HB 2132 expands the list of improvements eligible for financing under city and county programs in ORS 223.680 to finance energy improvements to real property to include energy storage, smart electric vehicle charging stations and water efficiency projects.

## **2134 – Low-Income Bill Payment Assistance**

Effective date: Jan. 2, 2018

Chapter: 200

HB 2134 increases the level of annual base funding established in the Low-Income Electric Bill Payment Assistance Fund from \$15 to \$20 million. While permanently increasing the base leveling funding by \$5 million, the bill eliminates the temporary authorization provisions for additional annual funding in the same amount.

## **2331 – DAS Compressed Natural Gas Program**

Effective date: Jan. 1, 2018

# LEGISLATIVE TITLE – 2017

Chapter: 67

HB 2331 authorizes the Department of Administrative Services to continue its program to make available, distribute and dispense compressed natural gas to private entities for use in motor vehicles until January 2, 2025.

## **2343 – Biennial Energy Report**

Effective date: Jan. 1, 2018

Chapter: 286

HB 2343 was introduced by the Oregon Department of Energy and creates a new framework and guidance for a State of Oregon biennial energy report, replacing a requirement of a Biennial Energy Plan. The report anticipated by the bill will be an evolving document that provides analysis using data collected and compiled by the department and that addresses trends, impacts, and changes in the energy sector. The purpose of the report shall be to inform local, state, regional, and federal energy policy development, energy planning and energy investments, and to identify opportunities to further the energy policies stated in ORS 469.010 and 469.310. The report is transmitted by ODOE to both the Governor and the Legislative Assembly no later than November 1 of every even-numbered year.

The report will perform several functions, including:

- Assess energy resources, uses, and impacts in Oregon on a state-wide and forward-looking basis
- Inform energy policy planning and development at local, state, regional and nation levels based on analysis of trends and assessments of existing policy and regulations
- Inform local, state, and regional strategic planning and investment in all energy resource areas
- Identify policy issues, impacts, opportunities, and challenges to further Oregon's energy policy and program development

The structure of the report will include presentation and analysis of several elements including:

- Relevant data and trends in energy consumption, generation, transmission, and production
- Energy prices and costs
- Regulations and policies that may impact the energy sector
- Local, regional and national energy planning activities with state impacts
- Forecasts of energy sector changes

HB 2343 does not allow public disclosure of exempted information unless ODOE can use it for analysis and compilation without disclosing it in a manner that is individually identifiable. The bill requires the agency to establish procedures to request exclusions for data and information from the report. The bill

# LEGISLATIVE TITLE – 2017

also instructs the department to seek public input and provide opportunities for public comment during the development of the report.

## **2760 – Alternative Energy Systems Tax Exemption**

Effective date: Oct. 6, 2017

Chapter: 542

HB 2760 extends the end date for a property tax exemption on the value of alternative energy systems installed on Oregon properties by six years. The definition for an alternative energy system is provided under ORS 301.175 and means property consisting of solar, geothermal, wind, water, fuel cell, or methane gas systems used for the purpose of heating, cooling, or generating electricity.

## **3025 – Energy Efficiency Standards for Battery Charger Systems**

Effective date: Jan. 1, 2018

Chapter: 295

HB 3025 changes the definition of battery chargers by adding a new category to the existing list of equipment that are not considered “battery charger systems” for the purpose of excluding them from applicable efficiency standards.

The definitional exclusion would remove a battery that is contained completely within a larger product and that provides power for data storage or for continuity within volatile cache or memory systems, that maintains information for system use, and that is not capable of powering full operation of the larger product when external AC line voltage is removed. This new exclusion generally applies to small, embedded, non-consumer batteries contained within larger electronic devices such as servers, workstations, and industrial and scientific equipment.

## **3456 – Solar Photovoltaic Land Use Exception**

Effective date: Jun. 29, 2017

Chapter: 504

HB 3456 allows solar photovoltaic projects to be sited on “high value farmland” as defined under ORS 195.300(10)(f)(C) which covers land within the Columbia Valley Viticultural Area, without having to obtain a Goal 3 (Agricultural) exception for removing more than 12 acres out of production if the land:

- Is not located within the boundaries of an irrigation district;
- Is not now, nor has been, within the past 20 years, a place of use of a water right authorizing the use of water for irrigation;

# LEGISLATIVE TITLE – 2017

- Is located in the service areas of an electric utility described in ORS 469A.052(2);
- Does not exceed the acreage the electric utility reasonably anticipates to need to achieve the Renewable Portfolio Standard under ORS 469A.052(3); and,
- Does not qualify as high-value farmland under any other provision of law.

## **3470 – State Financial Administration**

Effective date: Aug. 15, 2017

Chapter: 725

HB 3470 repeals the Alternative Fuel Vehicle Revolving Fund program and moves any money remaining in the fund to the General Fund.

## **5009 – Department of Energy Budget**

Effective date: July 3, 2017

Chapter: 543

HB 5009 establishes the budget for the Department of Energy, in the amount of \$36,313,435, for the biennium beginning July 1, 2017. The bill allocates \$3,023,630 as the maximum limit for payment of expenses from lottery moneys allocated from the Administrative Services Economic Development Fund to the State Department of Energy for debt service for the energy efficiency and sustainable technology loan program and for the Public Schools Grant Program. Under the bill, expenditures for small scale local energy projects and debt service are deemed not limited.

## **SENATE BILLS – Not Passed**

### **908 A – ODOE Organizational Changes**

SB 908 A was introduced as a result of the work conducted by the Joint Interim Committee on ODOE Oversight.

SB 908 A would have modified energy policy under ORS 469.010 to focus on energy to meet growing demand at affordable costs, and not just nonrenewable energy; promoted energy efficient resources consistent with state environmental policy; encouraged the development and use of affordable, sustainable energy resources; and stated that energy-efficient modes of transportation shall be encouraged, and that cost-effectiveness should be balanced with environmental policy considerations in agency decision-making related to energy sources, facilities, or conservation.

# LEGISLATIVE TITLE – 2017

The bill created a new Oregon Energy Commission with broad regulatory authority over the administration of the agency, including the ability to appoint the director, rulemaking authority, and the ability to issue orders. The bill created the Oregon Department of Energy under the new Oregon Energy Commission and directed the department to provide expert advice to the Governor and the Legislative Assembly on energy-related matters. Policy direction for the department was under the direction of the commission and certain agency duties, powers, and functions related to the Energy Facility Siting Council were transferred to the commission.

Under SB 908, ORS 469.060 and 469.070 would have been repealed, replacing the Biennial Energy Plan with new direction for a statewide strategic energy plan with general guidance on transparency, objectives, and metrics for assessment of the plan. In addition, the bill required the department to create a biennial comprehensive energy report for the Legislature.

## **952 A – ODOE Organizational Changes**

SB 952 A was introduced as a result of the work conducted by the Joint Interim Committee on ODOE Oversight.

SB 952 A would have modified energy policy under ORS 469.010 by removing language currently focused on environmental, social, and financial impact from depleted resources and preservation and enhancement of environmental quality, and discouraging inefficient modes of transportation.

It created the Oregon Energy Commission and provisions for membership. SB 952A outlined the functions and general authority given the Oregon Energy Commission, which included establishing the policies for operation of the State Department of Energy consistent with the energy policy established under ORS 469.010. While not limiting the authority granted the Energy Facility Siting Council, the Commission would act in an advisory capacity to the Energy Facility Siting Council and the Oregon Hanford Cleanup Board. All duties, functions, and powers of the Oregon Department of Energy would be transferred to the Oregon Energy Commission. The general duties of the Oregon Department of Energy would be modified and refocused, and the duties of the Director were changed to reflect the authorities transferred to the Oregon Energy Commission. The bill added Senate confirmation for the Director of the Department of Energy.

The bill directed the department to develop a statewide, strategic energy report and outlined criteria to be included in the report. The Oregon Energy Commission was required to adopt the first report no later than January 1, 2020. A draft report was to be submitted to the Legislature no later than September 15, 2019. Further, the bill required the Oregon Department of Energy to create a second, comprehensive report on energy resources, policies, trends, and forecasts in Oregon to be transmitted to the Governor and the Legislative assembly no later than November 1 annually. The criteria for the second report was similar to the statewide, strategic energy report due January 1, 2020.

SB 952 reduced the assessment against energy resource suppliers from 0.375 percent to 0.1 percent of the energy supplier's gross operating revenue. It also changed the definition for "gross operating revenue" and clarified exceptions to the definition.

# LEGISLATIVE TITLE – 2017

The bill transferred the Small Scale Local Energy Loan Fund and Clean Energy Deployment fund to the Oregon Business Development Department in their entirety. The Oregon Department of Energy was required to conduct audits on loans and tax credits issued by the Oregon Department of Energy. The Department of Revenue was required to conduct an audit to determine if recipients of tax credits failed to pay capital gains taxes on gains related to tax credits issued under ORS 315.341.

The bill repealed all statutes governing the Energy Project Supplemental Fund, Jobs, Energy and Schools Funds (JESF), Energy Project Bond Loan Fund, Energy Revenue Bond Repayment Fund and the Alternative Fuel Vehicle Revolving Fund (ALTVRF).

The bill also contained the provisions for SB 100 in its entirety. That bill was passed by the Legislature; a complete description may be found in this report under **Senate Bills – Passed**.

SB 952 would have extended the Residential Energy Tax Credit from tax years beginning January 1, 2018, to January 1, 2020, and required ODOE to make recommendations for a new incentive program to promote energy efficiency for residential energy users by January 1, 2020. The bill disallowed the transfer of tax credits being held by a tax-exempt entity or a government entity to a taxpayer but allowed tax-exempt and governmental entities to sell their credits to OBDD for cash. These provisions would have applied to tax years beginning January 1, 2017.

The bill required ODOE to study and prepare a report detailing the department's recommendations for restructuring the department to focus on the policies stated in ORS 469.010 and programs and activities in ORS 469.030.

## **1070 – Statewide Greenhouse Gas Cap and Investment Program**

SB 1070 would have created new greenhouse gas emissions limits and repealed the current greenhouse gas emissions reductions goals and policy under ORS 468.205. The bill added a definition for greenhouse gas to ORS 468A.005, which applied to environmental quality, public health and safety, air quality, air pollution control, and water quality and pollution control. The new definition included carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and nitrogen trifluoride.

The bill would have established new statewide greenhouse gas emission limits for total annual emissions of greenhouse gases in the state and all emissions of greenhouse gases from outside the state that are attributable to the generation of electricity delivered to and consumed in the state.

The Environmental Quality Commission was instructed to adopt rules for a statewide greenhouse gas emission goal for the year 2025 to limit levels to at least 20 percent below 1990 levels; a statewide greenhouse gas emissions limit for the year 2035 limiting emissions to levels that were at least 45 percent below 1990 levels; and, a statewide greenhouse gas emissions limit for year 2050 limiting emissions to levels that were at least 80 percent below 1990 levels.

SB 1070 created a greenhouse cap and investment program and framework with the purpose of reducing greenhouse gas emissions consistent with the new statewide greenhouse emission reduction

# LEGISLATIVE TITLE – 2017

goals and limits while promoting adaptation and resilience by the state’s communities and economy related to climate change.

The bill created several new committees, funds, and a fee structure that would have assisted the Environment Quality Commission in rulemaking and with implementation of the cap and investment program. This included working on rulemaking in consultation with the Environmental Justice Task Force, tribes, the Public Utility Commission, the Department of Energy and the Department of Transportation, and other interested state agencies. Committees created included the Greenhouse Gas Cap and Investment Program Oversight Committee and a Climate Investments in Impacted Communities Advisory Committee. Funding accounts created in SB 1070 included the Climate Investments Account within the State Highway Fund, the Oregon Climate Investments Fund and Grant Program, and the Just Transition Fund and Grant Program administered by Oregon Business Development Department.

Under the bill the EQC would have been required to adopt by rule a carbon pollution market for greenhouse gas emissions and determine what emissions sources should be covered by the program. The program allowed for the trading of two types of compliance instruments: allowances which were defined in the bill, and offset credits, also defined in the bill. The bill contained numerous provisions for the structure, administration, and participation in a carbon pollution market.

The EQC would have had authority to set criteria for distribution of allowances, and Department of Environmental Quality would have administered a process for distributing allowances either free of charge or through auction, pursuant to various restrictions/requirements outlined in the bill.

SB 1070 refocused the Oregon Global Warming Commission’s recommendations under ORS 468A.240 on preventing exceedance of the new levels of greenhouse gas emissions established in the bill, and changed the due date for the OGWC’s biennial report from March of each odd-numbered year to September of each even-numbered year. The new definition for greenhouse gas under ORS 468A.005 was applied to the statutes governing the OGWC.

## HOUSE BILLS – Not Passed

### **2020 B – Oregon Department of Energy and Climate**

HB 2020 would have revised the mission and energy policies that guide and govern the Department of Energy. The bill renamed the agency to the Oregon Department of Energy and Climate and created a new seven-member Oregon Energy and Climate Board to oversee and advise the Oregon Department of Energy and Climate.

The bill would have created the nine-member Energy Industry Advisory Committee and repealed the Energy Advisory Work Group. The Oregon Energy and Climate Board would have appointed the members of the EIAC. The advisory committee would have provided information and recommendations to the board on energy production, distribution, and utilization; energy portfolio resources and energy

# LEGISLATIVE TITLE – 2017

infrastructure resilience; and energy industry trends related to issued electric investor-owned utilities and natural gas investor-owned utilities.

HB 2020 proposed that the Oregon Department of Energy and Climate, in coordination with the Oregon Energy and Climate Board, would develop and submit a proposal for restructuring the state's policies and programs related to greenhouse gas emission or climate change.

The bill would have abolished the Oregon Global Warming Commission and transferred to the ODEC all records, property, and work products that related to the duties, function and powers of the OGWC.

Under the bill, the Director of the State Department of Energy would have become the Energy and Climate Director, and the position was subject to the policy direction of the Oregon Energy and Climate Board. The bill also made the director position subject to Senate confirmation.

## **3166 B - Energy Facility Siting Cost Recovery and Transfer of Small Scale Local Energy Loan Program to Oregon Business Development Department**

HB 3166 B was the product of the year-long Interim Oversight Committee of the Oregon Department of Energy. The bill contained some of the recommendations considered by the Committee.

HB 3166 B modified the cost recovery formula for energy facility site certificate holders by removing the 35 percent limit on general cost recovery for the Energy Facility Siting Council and the Department of Energy. The bill authorized the director of the Department of Energy to adopt a new formula for apportioning the general costs of the council and the department.

The bill transferred the duties, functions and powers related to the Small Scale Local Energy Loan Program related to loans for small scale local energy projects under ORS chapter 470 to the Oregon Business Development Department.

HB 3166 B authorized OBDD to conduct a study to determine the commercial needs in Oregon for loans for small scale local energy projects. The results of the study were to be reported to the Governor and appropriate interim committees of the Legislature no later than September 15, 2018.

OBDD was also instructed to use the information in the study to update and enhance the funding standards and criteria for small scale local energy projects. OBDD was given the authority to consult as necessary with state or federal agencies or nongovernmental entities for energy or energy policy expertise, and for application reviews when determining whether applications met energy policy standards and criteria. OBDD and the Oregon Infrastructure Finance Authority Board were authorized to approve or reject loans and specific criteria was set out in the bill.

The bill abolished the Energy Project Supplemental Fund established under ORS 470.570; the Energy Revenue Bond Repayment Fund established under ORS 470.585; the Energy Project Bond Loan Fund established under ORS 470.580; and the Jobs, Energy and Schools Fund established under ORS 470.575. Any funds remaining in the Energy Project Supplemental Fund, the Energy Revenue Bond Repayment Fund, or the Energy Project Bond Loan Fund were transferred to the Small Scale Local Energy Project

# LEGISLATIVE TITLE – 2017

Administration and Bond Sinking Fund. Any funds remaining in the Jobs, Energy and Schools Fund were transferred to the Clean Energy Deployment Fund.

## ENERGY TAX CREDIT BILLS – Not Passed

### House

#### **2072 A – Biomass Tax Credits**

HB 2072 transferred the administration of the biomass producer or collector tax credit to State Forestry Department for woody biomass collection, provided a cap of \$600,000 per tax year and extended the sunset for all types of biomass tax credits.

#### **2755 – Transfer of Tax Credits**

HB 2755 required the value of transferable tax credits to be determined during the calendar quarter in which agreement was reached to transfer the credit.

#### **2775 – Biomass Tax Credits**

HB 2775 limited the total amount of biomass tax credits allowed for animal manure annually to \$5 million for all taxpayers.

#### **2286 – Uniform Transfer of Tax Credits**

HB 2286 provided the Oregon Department of Revenue with the authority to require the uniform transfer process for tax credits and to create a uniform transfer procedure.

#### **2681 A – Residential Energy Tax Credit**

HB 2681 created policy objectives for the administration of the residential energy tax credit program at the Department of Energy, and extended the program's sunset date.

#### **3032 – Transfer of Tax Credits**

HB 3032 required the transfer value of tax credits be set at the lowest value as determined by either the time the preliminary application was issued, or at the time of final tax certification.

#### **3227 – Community Solar Project Tax Credit**

HB 3227 allowed a residential energy tax credit for an alternative energy device to be claimed by the owner or subscriber of a community solar project.

# LEGISLATIVE TITLE – 2017

## **Senate**

### **170 – Energy Conservation Tax Credits**

SB 170 extended the sunset for tax credits for energy conservation projects.

### **177 A – Residential Energy Tax Credit Program**

SB 177 A set policy objectives for the Department of Energy for administering income tax credits allowed for construction or installation of alternative energy devices, and extended the program's sunset date.

# LEGISLATIVE TITLE – 2017

## FOR MORE INFORMATION

The Oregon Department of Energy

550 NE Capitol Street NE

Salem, OR 97301

503-378-4040 | 800-221-8035

[askenergy@oregon.gov](mailto:askenergy@oregon.gov)

[www.oregon.gov/energy](http://www.oregon.gov/energy)

