



# 2021 Legislative Session Summary

**OREGON  
PUBLIC UTILITY  
COMMISSION**

## 2021 Legislative Session

Oregon's 2021 legislative session came to a close on June 26. There were 2390 bills, memorials, and resolutions introduced during the session. Of those, the legislature passed 680.

A number of the measures passed by the legislature directly or indirectly affect the Oregon Public Utility Commission (PUC). If you have questions about 2021 legislation related to policies that impact regulated utilities serving electricity, natural gas, telecommunications, or water, please contact Robin Freeman, Director of Policy at [robin.freeman@puc.oregon.gov](mailto:robin.freeman@puc.oregon.gov) or Michael Grant, Executive Director at [michael.grant@puc.oregon.gov](mailto:michael.grant@puc.oregon.gov)

2021 enrolled bills may be found on the Oregon Legislative Information System: <https://olis.oregonlegislature.gov/liz/2021R1/2021-01-11>

Measures signed into law are known as "session laws" and are available on the legislative website under Oregon Laws. Permanent Laws passed during the 2019 Legislative Session will not be codified until the 2021 edition of Oregon Revised Statutes is released. The 2021 ORS will be distributed and made available online late summer 2021.

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# LEGISLATION PASSED

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## House Measures

### Clean Energy

**HB 2021**

Chapter: 508, 2021 OR Laws

Effective Date: 9-25-21

HB 2021 establishes a clean energy standard for Oregon and creates a broad range of programs, studies, and statutory changes related to clean energy. The bill creates several new PUC work streams and increases the scope of many current agency activities.

#### Clean Energy Targets, Planning and Compliance

The bill contains a number of new definitions, including for community-based renewables, environmental justice, environmental justice communities, and nonemitting electricity.

A new clean energy program is created and sets greenhouse gas (GHG) emission reduction targets for electric companies which include Portland General Electric (PGE), PacifiCorp (PAC), and Electric Services Suppliers (ESSs) that supply electricity to retail electricity customers under the direct access program that the PUC administers.

The bill sets the following targets for reducing GHG emissions:

- By 2030, 80% below baseline emissions level
- By 2035, 90% below baseline emissions level
- By 2040, and every subsequent year, 100% below base line emissions level

Energy companies (PGE and PacifiCorp) are required to develop a clean energy plan for meeting the energy targets set forth in the bill. The plans must be submitted to the PUC and the Department of Environmental Equality (DEQ) and must be based on or included in an integrated resource plan (IRP) filing between January 1, 2022 and 180 days after the integrated resource plan is filed, or developed within the IRP process and incorporated into the IRP filed with the PUC.

An energy company's clean energy plan must include several components including incorporating the clean energy targets set by the bill; annual goals for actions that make progress towards meeting the clean energy targets; examination of costs and

opportunities of using community-based renewable energy to offset energy generated from fossil fuels; demonstrate progress within the planning period towards meeting targets; result in affordable, and reliable and clean electrical systems.

The plans are to include risk-based examination of resiliency opportunities. The utilities are required to consider prudent industry resiliency standards and the PUC is required to establish guidelines from which the examinations are based.

An ESSs must report to the PUC an estimate of annual greenhouse gas emissions associated with electricity sold by the ESS to retail electricity consumers for the current year and following three years, as well as annual goals for projected reduction of emissions associated and other information necessary, as determined by the PUC, to demonstrate the ESS's anticipated ability to meet the clean energy targets.

The DEQ is required to determine the baseline emissions level for each retail electricity provider and the amount of emissions reduction necessary for the electricity provider to meet the clean energy targets set forth in the bill. The DEQ must report their findings to the PUC. The PUC is required to acknowledge the clean energy plans from PGE and PacifiCorp if they are found to be consistent with the clean energy targets and in the public interest. The PUC is given guidance on considerations for plan acknowledgment. The PUC must review the information supplied by an ESS to determine reasonable progress toward compliance with the HB 2021 clean energy targets.

Under the bill, electric companies are required to convene a Community Benefits and Impacts Advisory Group. Membership is determined by the company with input from stakeholders that represent interests of customers within the electric company's service territory. In consultation with the group, the electric company will file a biennial report with the PUC that assesses the community benefits and impacts. The bill outlines several components that must be described in the report, including information on energy burden and disconnections; opportunities to increase contracting with women, veterans or Black, Indigenous or People of Color; actions taken within environmental justice communities that improve conditions related to resilience, and investments in the distribution system; investments that improve or benefit social, economic or environmental justice; customer experiences and actions taken to encourage customer engagement.

The bill includes a path for the PUC to use to take into consideration unplanned emissions in excess of the amount projected in a clean energy plan and remedies for returning to compliance.

The bill contains provisions for a company to apply for and receive a temporary compliance exemption to ensure that electric companies stay compliant with mandatory reliability standards set by the North American Electric Reliability Corporation; have results that enable them to securing cost-effective nonemitting energy resources or funding for energy efficiency and conservation at fair and reasonable rates; and maintain power quality and integrity in the company's system.

A six percent cost cap is established within the bill that is applied to the cumulative rate impact calculated. The PUC may direct, or an electric company or certain organizations (CUB and AWEC) may request, an accounting for investments made, costs incurred or forecasted costs estimated by the electric company for the purpose of compliance with HB 2021. The PUC must use a contested case proceeding for such an investigation to determine:

- If an investment or cost of an electric company contributes to compliance with HB 2021
- The actual or anticipated rate impact for the investment or cost on the same basis and with the same treatment for similarly situated investments or costs in the most recently approved general rate case, and
- To calculate the cumulative rate impact caused by all investments or costs

If the PUC determines that the actual or anticipated cumulative rate impact calculated exceeds six percent of the annual revenue requirement for a year, the PUC shall provide an exemption from further compliance with the requirements of the clean energy targets.

The PUC must provide the same opportunity to an ESS for a comparable exemption from further compliance. A comparable exemption must be provided based on comparable procedures and criteria, to the extent they apply to an ESS and adjusted to reflect applicable differences between electricity service suppliers and electric companies.

The bill contains provisions to allow the PUC to apply performance incentives for early compliance with one or more clean energy targets, and allows for adoption of rules by the PUC to comply with sections 1-15 of the Act. It requires the PUC to ensure customers served by ESSs appropriately share the costs borne by retail electricity consumers served by electric customers.

The critical role and nature of existing and future electricity markets and participation in future electricity markets is acknowledged in the bill. DEQ is authorized to periodically review and update its calculations of GHG emissions rates assigned to unspecified market purchases and power purchases dispatched by market operators to reflect the current resource mix and emission associated with these purchases.

Sections 1-15 of this 2021 Act do not apply to Idaho Power.

## Study on Small Scale Renewable Energy Projects

The Department of Energy is required to convene a work group to examine opportunities to encourage development of small scale and community-based renewable energy projects that contribute to economic development and local energy resiliency. The work group will be comprised of members of the Legislature, state and local government representatives (including the PUC), tribal governments, ESSs, investor-owned utilities, consumer-owned utilities, electric utility rate payers, and the Bonneville Power Administration. The ODOE will submit a report to the Legislature by September 30, 2022 based on the findings of the work group.

## Customer Supported Renewables

The bill allows governments and electric companies to file tariffs reflecting renewable and nonemitting energy goals to serve retail electricity consumers within the boundaries of these governments. Governments has been defined in the bill to include a city, county, irrigation district, ditch improvement district, water control district, or government or federally recognized Indian tribe in Oregon. Electricity must be derived from new or existing renewable energy resources or nonemitting energy resources that may include supply and demand-side resources, or paired with unbundled renewable energy certificates from eligible new or existing renewable energy resources.

The PUC may approve such a filing if the filing includes an attestation from the local government of coordination with the utility, and the government adopts an ordinance or other regulation that:

- Requires that retail electricity consumers within the boundaries of the government be served with renewable energy resources or nonemitting energy resources
- Gives the customers an opportunity to opt out
- Contains certain provisions to allow customers with demand greater than 30 kilowatts to participate if the demand is due to EV related services
- Contains protections, such as subsidies or bill payment assistance, for low-income consumers and provides that these protections are paid for solely by consumers within the boundaries of the government, and
- Sets forth the duration of the program

The electric company must ensure it has minimized the shifting of costs from retail electricity consumers to other customers who do not participate, and must use PUC-approved procurement processes, to the extent those processes apply, and any procurement criteria agreed to with the government.

Upon approval of a community supported renewables program, the electric customer must receive approval from the government to proceed (if the government declines, the electric company must file to suspend the rates and charges under the program).

Once governmental approval is received, the electric company must inform participating consumers of the program's costs and notice of any rate change. The electric company must also provide an annual report to the PUC and participating governments summarizing the program activities in the prior calendar year.

These provisions also require the PUC to allow a utility to recover the costs of the resources to serve the program, and to collect moneys from participating retail electricity consumers in excess of the cost of service and defer revenues or costs associated with the program to make future investments to serve program participants or to protect nonparticipating consumers should the government end its participation.

#### Providing Information about Clean Energy Programs to Customers and the Public

The bill amends ORS 757.649 to require the PUC to require an electric service supplier to publicly disclose a summary of the aggregated energy supply mix and associated emissions of the power sources (or other aggregated comparable information) that serve the direct access retail electricity consumers of the ESS.

#### Responsible Contractor Labor Standards

Establishes a number of labor standards and conditions that must be met by a person who constructs or repowers a large-scale project sited in Oregon. Part of the requirements include providing a signed attestation or declaration stating their compliance with the conditions. In lieu of an attestation or declaration, a person may provide a copy of the project labor agreement. The documentation must be delivered to the Department of Energy within 30 days from the date construction begins. The bill creates a definition for large-scale project that means "a renewable energy generation, sequestration or storage facility with a capacity rating of 10 megawatts or greater."

#### Natural Gas Plants

The bill prohibits the Energy Facility Siting Council from issuing a site certificate for a new generating facility that produces electric power from fossil fuels unless the council determines the facility will generate only nonemitting electricity as defined in the bill. The bill also prohibits the approval of an amendment of a site certificate if the action would significantly increase gross carbon dioxide emissions that are reasonably likely from the operation of the energy facility.

#### Community Renewable Energy Project Grant Program

A \$50 million Community Renewable Investment Fund is created for investments in community renewable energy projects that are defined as renewable energy systems, storage systems, microgrids or energy-related infrastructures that promote energy resilience, increase renewable energy generation or renewable energy storage capacity and provide a direct benefit to a particular community in the form of energy



resilience, local jobs, economic development or direct energy costs savings to families and small businesses.

The ODOE will administer the grant program for the purpose of offsetting the costs of planning and developing community renewable energy projects, promoting small-scale renewable energy projects, and providing direct community benefits across the state.

Federally recognized Oregon Indian tribes, public bodies and consumer-owned utilities are eligible to apply for grants from the Community Renewable Investment Fund.

#### Small-Scale Renewable Energy Projects

ORS 469A.210 is amended to change the percent of the amount of aggregate capacity generated by electricity from at least eight percent by 2025 to at least 10 percent by 2030 that must make up the sales of electricity to customers of PGE and PacifiCorp.

## **Transportation Electrification**

**HB 2165<sup>1</sup>**

Chapter: 95, OR Laws 2021

Effective Date: 1-1-22

HB 2165 creates utility investment in infrastructure to support the electrification of the transportation fleet through the collection of a charge equal to .25% of the total revenues received from retail customers of Portland General Electric and Pacific Power. This fee supports investments in transportation electrification infrastructure in their respective service territories outlined in the Transportation Electrification plans both utilities already submit to the PUC.

Investments will assist in preparing the grid for the increase in load anticipated by vehicle electrification. The bill clarifies these funds are minimum amounts to be invested, and requires at least 50 percent of this investment benefit communities currently underserved by investments in electric vehicle infrastructure, including rural communities.

The bill allows transportation electrification expenditures to be covered by rates if the measures undertaken can be shown to support transportation electrification and benefit utility customers through reductions of greenhouse gas emissions, distribution or transmission management benefits, revenues from electric vehicle charging offsetting utility fixed costs that may otherwise be charged to customers, system efficiencies, or increased customer choice through greater deployment and increased availability of and access to public and private electric vehicle charging stations.

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<sup>1</sup> See also HB 3055 below.

HB 2165 requires the electric company installing one or more electric vehicle charging stations to ensure customer choice in the selection of the type of electric vehicle charging station to be installed.

As it applies to zero-emission and electric vehicles rebates, the bill sets a ceiling for the manufacturer's suggested retail price at \$60,000 for vehicles powered by polymer electrolyte membrane fuel cells or proton exchange membrane fuel cells that use hydrogen fuel and oxygen from the air to produce electricity. The bill replaces the definitions for "low-income household" and "moderate income household" with a new definition for "low-income service provider" and "qualifying household." The charge ahead rebate is increased from \$2500 to \$5000.

## Racial Justice Council

**HB 2167**

Chapter: 612, OR Laws 2021

Effective Date: 1-1-22

HB 2167 codifies the Racial Justice Council that the Governor first convened in 2020 to direct the collection of data from across sectors of society to support data-driven policy decisions; provide principles and recommendations that center racial justice and inform the 2021-2023 Governor's Recommended Budget and Tax Expenditure Report; and, create a Racial Justice Action Plan for the criminal justice reform and police accountability, housing and homelessness, economic opportunity, health equity, environmental equity, and education recovery policy areas.

The bill identifies the Governor as the chairperson and limits number of participants to 40 members. The Governor appoints membership and the bill identifies several requirements for members that demonstrate a personal and professional commitment to racial equity, social and economic justice and diversity and inclusion as well as representation of the racial, gender and geographical diversity of Oregon.

The bill requires agencies to submit supplemental information under ORS 291.206 in the form of a racial impact statement with their agency request budget. The statement must be developed in consultation with the Racial Justice Council and describe the impact of programs, policies and budget modifications on Oregonians who are Black, Indigenous or other people of color.

## Broadband Infrastructure

**HB 2411**

Chapter: 524, OR Laws 2021

Effective Date: 9-25-21

HB 2411 requires the Oregon Broadband Office within Oregon Business Development Department to develop a registry of telecommunications providers and to make the registry available to the Oregon Department of Transportation.

The bill requires establishment of a process by which ODOT will notify telecommunications providers of potential projects that may be appropriate for the installation of broadband conduit. ODOT is required to identify installations of underground broadband infrastructure as part of certain projects included in the Statewide Transportation Improvement Program. ODOT makes final determinations in the suitability of modifying a project to include installation of underground utility infrastructure, and may prescribe any conditions, requirements, restrictions or other provisions related to modifications the department deems necessary.

The bill defines “telecommunications provider” as any person that is capable of providing broadband and communications services including, but not limited to, a telecommunications utility as defined by ORS 759.005, a competitive telecommunications provider as defined in ORS 759.005, a cable television provider or an interstate telecommunications provider.

## **Differential Energy Burden/Intervenor Funding**

**HB 2475**

Chapter: 90, OR Laws 2021

Effective Date: 1-1-22

HB 2475 creates new definitions found under ORS 756.010 to include “Environmental Justice” and “Environmental Justice Communities.”

The bill expands the considerations the PUC may use to establish rate classifications based on the differential energy burdens on low income customers and other economic, social equity or environmental justice factors that affected affordability for certain classes of utility customers. The costs of mitigating energy burdens must be collected through charges paid by all retail electricity consumers.

The bill also provides \$500,000 in new annual intervenor funding to groups that represent the broad interests of low income residential customers and residential customers that are members of environmental justice communities in regulatory proceedings conducted by the PUC related to public utilities that provide electricity or natural gas.

The PUC is required to establish a process for organizations to access financial assistance and must evaluate and approve intervenor funding agreements.

The PUC is required to provide a report no later than September 15, 2024 to the interim committees of the Legislative Assembly related to energy that discusses the implementation and impacts of the program providing intervenor funding to groups representing low income residential customers and residential customers of

environmental justice communities.

## **OTAP Funding**

**HB 2507**

Chapter: 66, OR Laws 2021

Effective Date: 1-1-22

HB 2507 makes two changes to the Oregon Telephone Assistance Program (OTAP). The first change provides the PUC the authority to manage this program independent from the Federal Communications Commission's Lifeline program. The second change is found in the extension of the sunset for the OTAP from January 1, 2023 to January 1, 2030.

## **Broadband Easement Authority – Cooperatives**

**HB 2654**

Chapter: 149, Or Laws 2021

Effective Date: 1-1-22

HB 2654 allows an electric cooperative to use, or allow for the use of an electric easement to provide broadband services. Broadband has the meaning given the term in ORS 276A.406. The electric cooperative must provide written notice to property owners if the use of the easement is an expansion of uses. Provides a commercial broadband services provider the authority to request an electric cooperative send a property owner notice when installation related activities are scheduled for easements. The cooperative may not grant the use of any easement owned, managed or operated by a city, and any unrecorded easement must be in current use by the electric cooperative in order for the cooperative to grant its use for broadband service.

Nothing in this bill would authorize an expanded use that is expressly prohibited, change any legal relationship between the property owner and the electric cooperative as the easement holder, or expand the footprint of the easement.

Under this bill, the electric cooperative may provide broadband service only through a broadband affiliate or separate broadband division within the electric cooperative. If an electric cooperative has a broadband division or affiliate they may withhold access or use from a commercial broadband service provider if there is insufficient capacity for attachments necessary to provide broadband, or for safety or reliability or generally applicable engineering impacts.

The bill also provides the electric cooperative that offers broadband to provide a reduced-cost broadband service to low-income customers.

HB 2564 provides several conditions around provision of broadband services to protect landowners against damages resulting from activities related to the installation of facilities, and to ensure proper and sufficient noticing when use of easement would create an expansion of use. The bill also establishes limitations on pricing by electric cooperatives for electric services to broadband service providers.

## Low-Income and Crisis Assistance

**HB 2739**

Chapter: 536, OR Laws 2021

Effective Date: 1-1-22

HB 2739 revises the existing low-income bill payment and crisis assistance program set forth in ORS 757.612(7) that serves electricity customers of investor-owned utilities. The bill contains two primary provisions.

First, the bill contains provisions similar to existing programs that require the PUC to establish an amount to be collected and the rates to be charged by each electric company from its customers, including ESS customers, ensuring collection by all electric companies in a calendar year is at least \$20 million. The PUC must adjust rates if forecasted or actual collections are less than \$20 million, and must ensure no customer pays more than \$500 per month per customer site for low-income electric bill payment and crisis assistance.

Funds collected by an electric company are paid to the Housing and Community Services Department (HCSD) Low-Income Electric Bill Payment Assistance Fund established by ORS 456.587(2). HCSD must use the funds solely for purposes related to low-income electric bill payment and crisis assistance.

The bill also provides the PUC with expanded ratemaking authority, and specifically provides the PUC with the ability to allow an electric company to provide reduced rates or other bill payment or crisis assistance or low-income program assistance to a low-income household eligible for assistance under the federal Low Income Energy Assistance Act.

Second, the bill temporarily increases the current \$20 million in annual funding by an additional \$10 million per calendar year for low-income electric bill payment and crisis assistance. These new and temporary provisions for low-income electricity customers expire on January 2, 2024.

The Housing and Community Services Department is required to ensure that these additional funding amounts respond to and are delivered to electric customers who have lost income due to circumstances arising from the disease caused by SARS-CoV02 (coronavirus). Income eligibility has been broadened to include households at or below 80 percent of area median income; standard household levels may be

increased to account for utility arrearages directly related to employment, income and health effects of SARSS-Co-V-2.

## Healthy Homes Program

**HB 2842**

Chapter: 622, OR Laws 2021

Effective Date: 9-25-21

HB 2842 creates the Healthy Homes Program within the Oregon Health Authority. The bill allocates \$10 million in General Fund to the Healthy Homes Repair Fund established in the State Treasury for the biennium beginning July 1, 2021.

The purpose of the program is to provide grants to eligible entities that provide financial assistance to low income households to repair and rehabilitate their residences and to landlords to repair and rehabilitate dwelling units inhabited by low income households.

To be eligible to receive grants from the Healthy Homes Program, an entity must serve or represent communities with high concentrations of low income households, or communities impacted by environmental justice factors. The bill includes definitions for both “environmental justice factor” and “low income household”.

- “Environmental justice factor” means a circumstance or condition that impacts a community’s ability to achieve a balance of health, economic or environmental benefits and burdens or that impacts a community’s ability to participate in public processes.
- “Low income household” means a household having an income equal to or below 80 percent of the area median family income as determined by the authority.

HB 2842 establishes the Interagency Task Force on Healthy Homes. The task force consists of several members of the communities likely to participate in the Healthy Homes Program, along with the directors (or their designees) from Department of Environmental Quality, Department of Energy, Department of Land Conservation and Development, and Human Services. The task force will develop tools to compile and collect data and generally assist in the successful deployment of the program.

The task force is required to submit a report to the interim Legislative committees related to housing, the Governor and the Environmental Justice Task Force by September 15, 2022. The report will include:

- Data and metrics associated with program deployment
- Identify barriers to program deployment and success and solutions
- Make recommendations for legislation to reduce barriers or expand program access and benefits

## Department of Emergency Management

**HB 2927**

Chapter: 539, 2021 Laws

Effective Date: 7-19-21

HB 2927 renames the Office of Emergency Management to the Oregon Department of Emergency Management (ODEM) and establishes the department as an independent state agency. The bill requires ODEM to coordinate emergency management functions and training related to emergency responses on a regional basis and to develop and carry out emergency preparedness statewide exercises.

It transfers the Oregon Emergency Response System from the Department of State Policy to ODEM and renames the Office of State Fire Marshal to Department of State Fire Marshal (DSFM) and establishes them as an independent state agency. The bill relocates the Oregon Homeland Security Council (HCS) within the Office of the Governor and establishes the Emergency Preparedness Advisory Council and creates a sunset of January 2, 2030.

The bill establishes the Local Government Emergency Management Advisory Council within ODEM, outlines membership and duties of the Council and creates a sunset of January 2, 2030.

## Equity on Rulemaking/Fiscal Advisory Boards

**HB 2993**

Chapter: 463, OR Laws 2021

Effective Date: 1-1-22

HB 2993 adds clarifying language to ORS 183.333 specifically stating the membership of an advisory committee appointed for the purpose of development of public policy or drafting of rules must represent the interests of persons and communities likely to be affected by the rule. Identical language is also included for purposes of identifying membership for appointments to a fiscal impact advisory committee.

Prior to adoption, amendment or repeal of any rule the agency is currently required to give notice of its intended action. The bill creates a new requirement as part of this notice in the form of a statement identifying how adoption of the rule will affect racial equity in the state.

HB 2993 also prohibits the appointment of an officer, employee or agent of the agency to serve as a member of a fiscal impact advisory committee. This prohibition mirrors conditions currently in statute for appointing members to advisory committees for purposes stated under ORS 183.333.

## Omnibus Transportation

**HB 3055**

Chapter: 630, OR Laws 2021

Effective Date: 9-25-21

HB 3055 is an omnibus transportation bill that primarily focuses on programs administered by the Department of Transportation.

However, Sections 21-23 relate to the PUC in that they allow an electric company or a natural gas utility to recover costs from consumers for expenses for investment in infrastructure to support adoption of alternative forms of transportation vehicles if certain conditions are met.

- Clarifies that “infrastructure measures” does not include investments in or expenses related to education and outreach activities related to transportation electrification, or other transportation electrification-related activities determined by the PUC to be separate and distinct from the development of infrastructure. The definition does include investments in or expenses related to rebates for supporting transportation electrification through: distribution system infrastructure; communication and control technologies; and, behind-the-meter infrastructure that may be owned by either the electric company or the customer.
- Allows transportation electrification expenditures to be covered by rates if the measures undertaken can be shown to support transportation electrification and benefit utility customers through reductions of greenhouse gas emissions, distribution or transmission management benefits, revenues from electric vehicle charging that are offsetting utility fixed costs that may otherwise be charged to customers, system efficiencies, or increased customer choice through greater deployment and increased availability of and access to public and private electric vehicle charging stations.
- Allows natural gas utilities to recover costs from investments related to infrastructure to support the adoption and service of alternative fuel vehicles if they can reasonably be expected to:
  - Support vehicles that are powered by renewable natural gas or hydrogen;
  - Support reductions in transportation sector greenhouse gas emissions over time; and,



- Benefit the natural gas utility system; or that revenues from natural gas utilities from fueling alternative forms of transportation vehicles offset utilities' fixed costs that may otherwise be charged to retail natural gas customers

## Public Purpose Charge

**HB 3141**

Chapter: 547, OR Laws 2021

Effective Date: 9-25-21

HB 3141 proposes several changes to the laws governing the collection and use of the public purpose charge (PPC). PPC revenues are reduced from 3% to 1.5% by shifting energy conservation funding energy efficiency out of the PPC and into utility rates. The funding levels for the four remaining PPC components either remain the same or are slightly increased. The utilities retain the requirement to acquire all cost-effective energy efficiency.

The bill extends the current PPC sunset from January 1, 2026 to January 1, 2036. It institutes caps for large-industrial contributions to the PPC and to energy conservation now in utility rates. The caps range from \$250,000 to \$4.5 million annually depending on customer demand and the year. The bill ensures retail electricity consumers receiving service from electricity service suppliers (ESS) are paying for all cost-effective energy efficiency.

### Public Purpose Charge Redesign

The funding levels for the four remaining PPC components either remain the same or are slightly increased:

- 0.3% for school districts that are located in the service territory of the utility
- 0.51% for above market costs for new renewables of 20MW or less, or customer investments in distribution system-connected technologies that support reliability, resilience and the integration of renewable energy resources with the utility's distribution system (25 percent of these funds must be used for activities, resources and technologies that serve low and moderate income customers, including for technologies that do not have above-market costs)
- 0.55% for new low-income weatherization (to be directed to the Housing and Community Services Department and spent within the service territory of the utility)
- 0.14% for deposit in the HCSD for the purpose of providing grants as described in ORS 458.587(2)

The bill increases the amount 1 aMW customers are credited against PPC fees for renewable energy resources to not exceed 25.5%. It was formerly 19%.

## Energy Efficiency

Utilities must continue to acquire all cost-effective energy efficiency to be recovered through rates. The bill allows the PUC to continue its practice of requiring monies collected in rates for energy efficiency to be paid to a “nongovernmental entity” (currently the Energy Trust of Oregon) for certain expenditures. The bill clarifies that retail electric consumers served by Energy Services Suppliers must pay the same amount for energy efficiency.

The bill establishes key limits on payments by large customers using over one average megawatt (MWa) of electricity. Through 2025 the maximum amount any customer over 1 MWa can be charged is limited to 1.7% for energy efficiency. From 2026 through 2035 the maximum amount a customer between 1 MWa and 10 MWa is capped at \$250,000. For customers over 10 MWa in usage, the contribution toward EE is capped at \$4 million annually from 2026 through 2030. From 2031 through 2035, this cap is raised to \$4.5 million annually.

## Nongovernmental Entity

The bill creates new provisions related to a nongovernmental entity (currently Energy Trust of Oregon). It extends the PUC's authority to codify existing practice to direct funds to a selected nongovernmental entity from funds collected through natural gas tariffs along with the electric utilities' PPC related activities. ETO is required jointly develop with electric companies, electric company-specific budgets, action plans and agreements that detail ETO's specific planned expenditures for activities, resources and technologies. These plans should include joint investments and reflect stakeholder feedback through a public process, relevant to the public utility and overseen by the PUC.

## Environmental Justice

HB 3141 defines “Environmental Justice” and “Environmental Justice Communities.” Under the bill the PUC must establish equity metrics to assess and create accountability for environmental justice in the expenditure of energy conservation funds. These metrics must reflect feedback through a public process that includes, at minimum, environmental justice communities. The nongovernmental entity receiving energy conservation funding is required to report on progress toward equity metrics. The PUC must develop equity metrics by December 31, 2022 and is required to update these metrics every four years.

## Low-Income Electric Bill Payment Assistance

The bill make revisions to the existing low-income bill payment assistance program that requires the PUC to establish an amount to be collected and the rates to be charged by each electric company from its customers, including ESS customers, ensuring collection by all electric companies in a calendar year is at least \$20 million. The PUC must adjust rates if forecasted or actual collections are less than \$20 million, and must ensure no customer pays more than \$500 per month per customer site for low-income electric bill payment and crisis assistance.

Funds collected by an electric company are paid to the Housing and Community Services Department (HCSD) Low-Income Electric Bill Payment Assistance Fund. HCSD must use the funds solely for purposes related to low-income electric bill payment and crisis assistance.

## Offshore Wind Energy

**HB 3375**

Chapter: 376, OR Laws 2021

Effective Date: 9-25-21

HB 3375 makes several supportive statements on the benefits of offshore wind energy development and the positive effects it could have on Oregon's coastal communities, benefits it could bring to the Oregon economy, and contributions to Oregon's Renewable Portfolio Standard, as well as statements addressing resiliency efforts and the Pacific NW transmission grid.

The bill sets out several Legislative findings and supports those by setting a goal for the state to plan for the development of up to three gigawatts of floating offshore wind energy projects within federal waters off the Oregon coast by 2030. He bill provides additional guidance on conducting the planning to maximize benefits to the state while minimizing conflicts between floating offshore wind energy, ocean ecosystems and ocean users, and maintaining consistency with federal laws. The bill pays particular attention to guidance on decommissioning of any offshore facility after permanent cessation of use of the facility.

The Department of Energy is required to conduct a literature review on the benefits and challenges of integrating up to three gigawatts of floating offshore wind energy into Oregon's grid by 2030. DOE is instructed to gather input and consult with the appropriate state agencies including the PUC on the benefits and challenges associated with integrating offshore wind energy on reliability, state renewable energy goals, jobs, equity and resilience. The DOE is required to provide a summary of the key findings from the review and consultation, including opportunities for future study and engagement in a report to the Legislature no later than September 2022.

# Senate Measures

## Natural Gas Pipeline Safety Civil Penalties

**SB 117**

Chapter: 35, OR Laws 2021

Effective Date: 1-1-22

SB 117 provides the PUC with the authority to set by rule the state of Oregon's maximum civil penalties related to the enforcement of pipeline safety regulations found under ORS 757.991 for the purpose of aligning them with federal maximum civil penalties found in Title 49 CFR part 190.223 "Maximum Penalties." The bill authorizes the PUC to set state maximum civil penalties at amounts up to those set at the federal level.

The federal government is primarily responsible for developing, issuing and enforcing pipeline safety regulations. Oregon is certified by the US Department of Transportation Pipeline and Hazardous Material Safety Administration to assume responsibility for certain aspects of intrastate natural gas pipeline regulatory, inspection and enforcement activities with annual certification. To ensure the state maintains its certification and continues to receive federal monies, it must provide for enforcement sanctions substantially the same as those authorized by the federal pipeline safety statutes.

## Study and Report of Renewable Hydrogen Production

**SB 333**

Chapter: 41, OR Laws 2021

Effective Date: 9-25-21

SB 333 creates a definition for renewable hydrogen that means hydrogen gas derived from energy sources that do not emit greenhouse gases.

The bill directs the Oregon Department of Energy to study benefits and barriers to the production of renewable hydrogen in Oregon and submit a report to the interim committees of the Legislative Assembly related to revenue no later than September 15, 2022.

The study must include:

- Total volume of hydrogen used by different industries in Oregon
- Potential applications in Oregon by 2030, including transportation, industry, electricity generation, energy storage and other sectors
- An analysis of coupling renewable electricity generation with renewable hydrogen to increase resiliency or provide flexible loads
- Costs of renewable hydrogen and its potential effect on adoption in Oregon, and

- Technological, policy, commercial, and economic barriers to adoption in Oregon

## **RTO Report**

**SB 589**

Chapter: 83, OR Laws 2021

Effective Date: 5-21-21

SB 589 requires the Department of Energy, in consultation with the PUC, to prepare a report identifying the benefits, opportunities and challenges posed by the development or expansion of a regional transmission organization in this state. The bill calls for the establishment an advisory committee that would advise the agency on the development of the report and identifies a member of the PUC (or designee) as a member of an advisory committee to be used in drafting the report.

ODOE is first required to perform a literature review about the development of a regional transmission organization in Oregon. Once that review is completed, ODOE, in consultation with the PUC, must prepare a summary of the reviews and a set of scoping questions to be shared with the advisory committee.

ODOE must hold at least two meetings with the advisory committee and provide the report to the legislature by December 31, 2021.

## **Omnibus Wildfire**

**SB 762**

Chapter: 592, OR Laws 2021

Effective Date: 7-19-21

SB 762 is a comprehensive, omnibus wildfire bill that establishes new electric utility system mandates to identify and assist in mitigating wildfire risks. The bill codifies several aspects of the Governor's Executive Order 20-04.

As it relates to the PUC, the bill requires the PUC to convene workshops for the purpose of helping all utilities in Oregon and operators of electrical transmission and distribution systems develop and share information on identifying, adopting and carrying out best practices regarding risk-based wildfire protection and mitigation, procedures and standards.

In Oregon we have investor-owned electric utilities (IOUs) that include Portland General Electric, PacifiCorp, and Idaho Power, and we have over 35 consumer-owned electric utilities (COUs) that include People's Utility Districts, cooperatives and municipalities. Under this bill all utilities are required to operate under a risk-based wildfire protection plan.

The IOUs must submit plans to the PUC by December 31, 2021.

- The PUC must evaluate the plans to ensure they are based on reasonable and prudent practices identified through the workshops established by the bill and based on PUC standards adopted by rule.
- The PUC must determine how often the risk-based protection plans are updated by the public utilities and would review the updated plans when filed with the PUC.
- The bill sets a six month timeframe for PUC approval, or approval with conditions, after receiving a wildfire protection plan or plan update.
- The PUC is required to adopt rules for risk-based wildfire protection plan development, approval or conditional approval, and is directed on what must be included in the rulemaking which include procedures and standards regarding vegetation management, public power safety shutoffs and restoration, pole materials, circuitry and system monitoring.
- New civil penalties are included in the bill and directly tied to violations for utility compliance with a risk-based wildfire protection plan.
- The PUC must establish an automatic adjustment clause, or other method, to allow public utilities to recover costs for development, implementation/operation of a wildfire protection plan.

COUs must also develop and periodically update risk-based wildfire mitigation plans. Copies of COU risk-based wildfire mitigation plans are submitted to the PUC once they have been approved by their governing body. A COU is required to submit a first plan to their utility governing body no later than June 30, 2022.

The bill requires the Governor to appoint a State Wildfire Programs Director to oversee the implementation of this bill and to coordinate and integrate the activities of state agencies. The director must report to the Governor and the Legislature every 60 days to summarize the progress of implementation activities, including reporting on additional opportunities to engage electric utilities “regarding further actions to protect public safety, reduce risk to electric company customers and promote electrical system resilience to wildfire damage.

## **EJ Framework of Oregon Principles**

**SCR 17**

Filed by Secretary of State 6-15-21

In this Senate Concurrent Resolution, the Legislative Assembly acknowledges the importance of environmental and climate solutions addressing structural, socioeconomic inequalities built by a history of economic and social inequality, whether intentional or unintentional.

The SCR highlights the Black, Native American, Indigenous and People of Color communities and immigrant communities and low-income communities as

experiencing the brunt of health, economic and ecological consequences that have been made worse by climate change.

The resolution speaks to and acknowledges health and financial inequities, environmental justice hazards, futures of essential workers and our youth and low-income and vulnerable rural and urban communities.

The Legislative Assembly states in SCR 17, Be It Resolved –

In recognition of ORS 182.545 and the responsibilities of state agencies to provide greater public participation to ensure that all persons affected by decisions of natural resource agencies have a voice in those decisions that ORS 182.545 shall apply to all state agencies and all policy decisions.

State agencies are asked to be responsible to respond to health, environmental, economic and climate change crisis and are accountable to build a just, equitable and resilient future to secure health and well-being for all people.

State agencies are asked to develop guidance for consideration of environmental justice in implementing their statutory and regulatory responsibilities and will consult with the Environmental Justice Task Force to ensure that actions are taken to correct environmental injustices and improve public health.

Oregon will make reparative investments in frontline communities and direct state resources to ensure that policies and processes are focused on building healthy systems for healthy food, renewable energy infrastructure, clean air and water, good jobs with a family-sustainable wage and a range of workforce services and skills training.

State agencies will recognize that environmental justice encompasses challenges and solutions that are shared across urban and rural frontline communities and work to enact policies that recognize the need to rebuild our communities and provide fair access to resources and build relationships to communities to achieve collaborate solutions.

Oregon will address environmental pollution acknowledging the right of all people to clean air, safe and affordable drinking water and protection from climate hazards and the sustainable preservation of ecological integrity and the aesthetic, scientific, cultural and historical values of the natural environment.

The SCR ends by stating that a regenerative economy in Oregon will be based on community health protection, respect for traditional ecological knowledge systems and full and fair participation of Black, Native American, Indigenous and People of Color communities, essential workers, youth, low-income people and those who are most vulnerable in rural and urban communities.

# BUDGET BILLS

## Oregon Public Utility Commission

**HB 5032**

Chapter: 382, 2021 Laws

Effective Date: 7-1-21

HB 5032 creates the PUC's 2021-23 biennium budget of \$104,048,850 and 129 positions (128 FTE). The budget is a 5.57% decrease from the 2019-21 biennium budget and a 13.94% increase from the current service level.

The decrease in the 2021-23 budget is due to an adjustment to anticipated Oregon Universal Service Fund revenue and expenditures. The OUSF surcharge is collected by the PUC and distributed to eligible telecommunication carriers in parts of Oregon where providing telephone service is costly. The fund is generating less revenue due to loss of landlines or wireline revenue. As these are pass-through funds, the PUC's revenue and expenditures are declining but with no impact on PUC operations.

The increase from current service level is due to the following two approved budget increases:

- The e-filing/e-docket discovery IT project received an increase in limitation of \$321,972
- The Oregon Telephone Assistance Program (OTAP) received an increase in limitation of \$1.2 million for increasing the discount from \$3.50 to \$10 for eligible low-income households that subscribe to telephone or broadband internet access service.

## Emergency Board/Budget Reconciliation

**HB 5006**

Chapter: 669, OR Laws 2021

Effective Date: 8-6-21

HB 5006 relates to state financial administration and is the Emergency Board and budget reconciliation measure for the 2021-23 biennium. The bill finalizes components of the statewide budget, implements the budgetary changes for other budget and policy legislation, and makes technical and other adjustments to previously approved agency budgets.

The bill appropriates \$50 million General Fund to the Emergency Board for general purposes and \$499.6 million for 10 special purpose appropriations. The bill provides



expenditure limitation and General Fund adjustments related to the state's receipt of federal funding under the American Rescue Plan Act. ARPA funds are used for both investments and as replacement revenue for eligible General Fund revenues and expenses.

Some of the key components of the bill include the following:

- \$120 million Federal Funds in expenditure limitation for monies from the American Rescue Plan Act (ARPA) Capital Projects Funds for Oregon Business Development Department for deposit in the Broadband Fund. The Oregon Business Development Department will use this funding for grants to increase broadband internet availability across the state.
- \$150 million General Fund for allocation for the state's natural disaster prevention, preparedness, response, and recovery activities.

### Emergency Board

The Emergency Board allocates General Fund from the Emergency Fund, along with providing Lottery Funds, Other Funds, and Federal Funds expenditure limitation to state agencies for unanticipated needs in approved agency budgets when the Legislature is not in session. The bill appropriates \$50 million General Fund to the Emergency Board for general purposes.

### Department of Administrative Services - American Rescue Plan Act (ARPA)

\$240 million in federal ARPA funds were approved for the Department of Administrative Services (DAS) to distribute to each Senate and House district in the amounts of \$4 million per Senate district and \$2 million per House district for projects that are ARPA eligible.

### Department of Energy

The Legislature created two new grant programs to be operated by the Department of Energy in the 2021-23 biennium.

- A one-time General Fund appropriation of \$10 million was provided for the solar rebate program established in HB 2618 (2019). The \$10 million will be deposited into the Rooftop Solar Incentive Fund for the issuance of rebates and to pay for implementation and administration of the solar rebate program. Of the \$10 million, almost \$9.2 million is available for rebates.
- \$10,831,296 General Fund for the Department to establish a new grant program designed to incentivize residential and commercial energy efficiency for 2020 wildfire survivors who are rebuilding and repairing dwellings and other structures that were destroyed or damaged in the 2020 wildfires.

# BILL EFFECTIVE & OPERATIONAL DATES

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## Normal Effective Dates

ORS 171.022 provides that unless otherwise stated all bills take effect on January 1 of the year after the bill is signed into law. So, unless a bill specifically names a different effective date or has an emergency clause, the bill will take effect on January 1 of the next year.

## Emergency Clause

The Oregon Constitution prohibits a bill from taking effect “until ninety days from the end of the session” unless an emergency is declared. An emergency clause will appear in the bill if it is to take effect before the 91st day after adjournment sine die. Bills with emergency clauses are not subject to a referendum of the voters, all other bills are subject to possible referral under the Oregon Constitution. Because of this provision, the Constitution gives the Governor the power to veto an emergency clause without affecting the rest of the bill. The Constitution also prohibits the use of an emergency clause in bills that regulate taxation or exemption. An emergency clause must apply to an entire bill.

## Operative Date

If a bill requires administrative preparation before the bill is fully operative, an operative date is used to delay operation of all or part of the bill. If an operative date is used, the entire bill takes effect on its effective date. However, a specified part of the Act does not become operational until a later specified date. It is important to distinguish between items that are authorized on and after the effective date and items that are not authorized until the operative date.

**Example** of an emergency clause for a bill that will take effect on its passage:

SECTION 30. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Note: A bill with an emergency clause takes effect when the Governor signs it, not when passed by both houses of the Legislative Assembly.

**Example** of an emergency clause for a bill that takes effect on a specific date after passage but before the 91<sup>st</sup> day after the end of session:

SECTION 30. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect July 1, 2009.

Note: If the July 1 date is used and the Governor signs the bill before July 1, the bill takes effect on July 1. If the Governor signs the bill after July 1, the bill takes effect on the date the Governor signs it.

# FOR MORE INFORMATION

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