

W. G. C.

Memorandum Date: January 27, 2010

TO: Board of County Commissioners
DEPARTMENT: Administration, Intergovernmental Relations
PRESENTED BY: Alex Cuyler, Intergovernmental Relations Manager
Mike Barnhart, Finance Manager
AGENDA ITEM TITLE: Energy Efficiency and Sustainable Technology Program

I. MOTION

This packet is for informational purposes only, although the Board may wish to provide future direction to the County Administrator as a result of the options discussed in the staff presentation.

II. AGENDA ITEM SUMMARY

House Bill 2626 was passed into law during the 2009 regular legislative session. The bill creates two loan pathways (for up to \$40,000 maximum) to expanded access to energy conservation and innovation for Oregonians.

- One is the Energy Efficiency and Sustainable Technology program (EEAST) that is targeted to residential and small commercial projects with repayment via a customer's utility bill.
- The other is a local program to be established by a city or county for residential, commercial or industrial energy improvements with repayment through property tax assessments or directly through formation and administration of a local improvement district.

The purpose of this packet is to inform the Board of County Commissioner as to new opportunities that Lane County residents and businesses may realize as a result of this legislation. It outlines the choices the Board could make and outlines key activities that will need to be implemented in order for residents to take advantage of new energy-related options.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

- The Lane County Board of County Commissioners regularly establishes a list of priority issues related to the Oregon legislature, and actively monitors introduced bills as part of its regular functions. It was supportive of HB 2626, and staff monitored this bill throughout its advancement through the legislature.
- On August 18, 2009, the Board invited Harvey Rogers, Bond Counsel to discuss issuance of bonds related to energy efficiency measures and renewable energy renovations. Mr. Rogers was involved with the drafting of HB 2626.
- On December 3, 2009, the Oregon Department of Energy released a Request for Proposal for consumer owned utilities to participate in a pilot project related to on-bill financing. ODOE will select one or more consumer-owned utilized to act as a sustainable energy project manager for the pilot (or pilots). Responses

were due on January 3, 2010. After the pilot project phase is complete ODOT may implement a statewide project. This RFP was issued in conjunction with an existing opportunity for ODOE to leverage federal funding.

- Lane County provides a comprehensive suite of income qualified energy related services through the Human Services Commission.
- Lane Manual 60.850 provides for a 15% administrative fee to be assessed against all permits issued by the Land Management Division.

B. Policy Issues

The Board will contemplate several policy related issues as it discusses the options created by HB 2626.

The first policy question relates to the amount of risk that the Board is comfortable assuming. HB 2626 does not provide any funding for loaning money for energy improvements, only a mechanism towards that end. In all likelihood the Board would have to sell a bond to create a reservoir of funding for energy projects, and the risk inherent in repaying this bond successfully is a key policy issue for the Board to consider.

A related policy question is what is the role of Lane County when it comes to energy related issues? If it chooses to be involved with energy related issues, a secondary question will be what role will staff play in the potential implementation of increased energy related options for residents and under whose direction with those staff operate?

Lane County has staff (Human Services Commission-Energy Program) that work on conservation related services for low-income residents. This opportunity, however, may involve staff within the Department of Assessment and Taxation, Department of Management Services (finance) if a Local Improvement District is formed, or involve staff from County Administration (economic development or intergovernmental relations) if a collaborative approach with electric utilities is the favored approach. Another option would be to place this program within the Land Management Division of Public Works. Should the County Board decide to pursue an effort to become a project manager (per HB 2626), it is recommended that a thorough analysis of bonding law and repayment issues be undertaken by the County Counsel.

Each of these staff areas are challenged in terms of their ability to take on additional work unless additional resources are provided. While implementing this bill may save individual rate payers money over the long term, there was no up front public funding contained within the bill nor available at this point for Lane County implementation efforts.

C. Board Goals

There are no Board Goals that appear consistent with the provision of energy services, but the Strategic Plan does reference both a healthy environment and appropriate community development.

D. Financial and/or Resource Considerations

- Securing funding for identified staffing resources necessary to implement the opportunities provided by passage of HB 2626.
- Identifying appropriate staff levels necessary to administer a loan program, and developing a mechanism to reimburse the County for administration expenses.
- Issuance of a bond and the implications of that outstanding bond.

E. Analysis

HB 2626 (termed EEAST, for the Energy Efficiency and Sustainable Technology Act), focuses on providing funding for commercial, residential and public buildings small commercial energy efficiency and renewable energy projects. It is a tool through which low-cost, voluntary loan programs will be developed in order to provide financing for weatherizing existing residences and small businesses and for producing renewable energy. The loan payment was envisioned to be offset by the energy savings created. Depending on circumstances, loan payments will be made either through the utility bill or through the property tax bill. The loan may be transferred with ownership. \$40,000 is the maximum loan amount.

On-bill repayment

In order to provide this loan opportunity to all Lane County residents, a fairly large collaboration would need to take place. There are ten electric utilities in Lane County, and they are a mix of consumer owned, public utility districts, municipally owned, and private firms. Typically, each utility would need to act as a “sustainable energy project manager” The project manager is a financial entity that will provide application review, underwriting, documentation, loan advances and loan servicing of individual loans with SELP (DOE’s Small Scale Energy Loan Program) providing bulk financing for a large number of projects. The project manager or financial service entity can combine SELP funds, utility incentive dollars and any other funds to ensure that all project bills are paid. The project manager may also be a local government, if the DOE determines that there is a need for an alternative program manager. There may also exist an opportunity for the Energy Trust of Oregon to act as a program manager (the Energy Trusts activities in Lane County are relatively limited).

Local Improvement District

HB 2626 also allows local government to establish a program to make loans to homeowners for the purpose of paying for cost-effective energy improvements financed with the net proceeds and interest earnings of revenue bonds authorized by the bill.

Prior to establishing a this type of program, the local government is required to provide notice to utilities that distribute electric energy or natural gas within the areas in which the local government will operate the program.

The local government will secure the loan with a lien on the property or in any other manner the local government determines is reasonable. The amount due on the loan could be added to the assessment of the property, and repaid through property taxes. This approach is highly problematic due to how the percentage distribution (to the taxing

districts) schedule works and how discounts and uncollectables will effect repayment of their lien and the title to the property. More appropriate may be to form a local improvement district per ORS 223.505 to 223.650, and administer all aspects of the loan and repayment through a yet-to-be identified work unit.

Program costs may be included/assessed to the overall scope of program. Lane County could reimburse itself for program costs if it determines a proper per account assessment for the staff and administrative overhead.

Bonding Issues

HB 2626 provides two avenues for Lane County to fund small scale local energy program loans, both of which should be managed via a Local Improvement District:

1. Issue Lane County assessment bonds
2. Apply to the State Department of Energy for SELP loans (funded by State of Oregon revenue bonds)

The key to financial stability for both options is for Lane County to set fees, interest rates, and repayment terms sufficient to cover bond/loan repayment provisions and program operating costs. Operating costs include administrative functions plus the cost of managing a Local Improvement District. Legal costs and estimated losses on loan delinquencies also need to be factored in.

Outside of HB2626, Lane County can issue Qualified Energy Conservation Bonds (QEGBs). However, only 30% of a QEGB can be used for energy efficiency improvement loans to individual homeowners (private activities), unless the program is part of a "Green Community Program" as defined by the EPA, in which case 100% of the QEGB can be used for such purposes.

F. Alternatives/Options

- 1.) Direct the County Administrator to pursue a voluntary collaboration amongst the electrical utilities providing service in Lane County to develop an EEAST loan program such that each Lane County resident is provided with the loan options outlined in HB 2626.
- 2.) Direct the County Administrator to pursue a detailed proposal outlining necessary staff, inter-departmental communications and shared responsibilities, and bond development in order to provide for a local improvement district as envisioned by HB 2626.
- 3.) Direct the County Administrator to generate a request for proposal to outsource the administration of a local improvement district in alignment with the intent of HB 2626.
- 4.) Do nothing

IV. RECOMMENDATION

Staff reluctantly recommends option 4 at this point. Given the uncertainty forced upon Lane County due to budgetary concerns with regards to local, state, and federal financial issues, developing new service delivery systems related to HB 2626 would be unwise. The Board should direct the Administrator to continue monitoring

developments in this regard, for instance an analysis related to future county-wide implementations of such a program by another Oregon county.

An additional option may be the pursuit of option one, with an attempt to identify an appropriate mechanism that could be leveraged in order to more easily get all utilities in the County to provide a uniform offering to their customers. Staff notes that the Energy Trust of Oregon was created to provide some uniformity of conservation services to customers of investor-owned utilities, but these services continue to remain unique in Lane County due to the relative diversity of utility ownership frameworks within Lane County.

V. TIMING/IMPLEMENTATION

There is no particular timeliness suggested under the bill, however, the DOE is pursuing two pilot projects within the auspices of the bill that may inform the readiness of this program.

VI. FOLLOW-UP

Staff will continue to monitor issues related to HB 2626, including related rulemaking or need for amendment (February's legislative session will bring a yet un-numbered bill that further refines HB 2626).

VII. ATTACHMENTS

Attachment A outlines the language contained in HB 2626 related to the implementation of a local improvement district.

Attachment B is LC 125, the bill expected to be introduced during the special session of the 75th Oregon Legislature.

ATTACHMENT A

SECTION 73. ORS 470.310 is amended to read:

470.310. (1) If there are insufficient funds in the **Small Scale Local Energy Project Administration and Bond Sinking Fund** to make the payments referred to in ORS 470.300 (1), the Director of the State Department of Energy may request the funds necessary for such payments from the Legislative Assembly or the Emergency Board.

(2) When the director determines that moneys in sufficient amount are available in the sinking fund, the State Treasurer shall reimburse the General Fund without interest, in an amount equal to the amount allocated by the Legislative Assembly or the Emergency Board pursuant to subsection (1) of this section. The moneys used to reimburse the General Fund under this subsection shall not be considered a budget item on which a limitation is otherwise fixed by law, but shall be in addition to any specific appropriations or amounts authorized to be expended from continually appropriated moneys.

LOCAL IMPROVEMENT DISTRICTS

SECTION 74. Section 75 of this 2009 Act is added to and made a part of ORS 223.387 to 223.399.

SECTION 75. (1) As used in this section:

(a) "Energy improvements" means energy efficiency and renewable energy improvements to qualifying real property authorized by:

(A) A local government implementing a program established under subsection (2) of this section; or

(B) The State Department of Energy for a loan issued under subsection (9) of this section to a local government that establishes a program in cooperation with a local government described in subparagraph (A) of this paragraph.

(b) "Local government" means cities and counties.

(c) "Qualifying real property" means single-family or multifamily residential dwellings or commercial or industrial buildings that the local government has determined can be benefited by energy improvements.

(2) Subject to subsection (3) of this section, a local government may establish a program to make loans to owners of record of qualifying real property for the purpose of paying for cost-effective energy improvements to the qualifying real property financed with the net proceeds and interest earnings of revenue bonds authorized by this section.

(3) Before establishing a program under this section, the local government shall provide notice to utilities that distribute electric energy or natural gas within the areas in which the local government will operate the program.

(4) A local government that establishes a program under this section may:

(a) Require performance of an energy audit on the qualifying real property before the local government approves a loan for energy improvements to the property;

(b) Impose requirements intended to ensure that the loan is consistent with the purpose of the program; and

(c) Impose requirements and conditions on loans that are designed to ensure timely repayment of the loans.

(5) If the owner of record of qualifying real property requests a loan under this section, the local government implementing the program may:

(a) Enter into a loan agreement with the owner, and any other person benefited by the loan, in a principal amount sufficient to pay:

(A) The costs of energy improvements the local government determines will benefit the qualifying real property and the borrowers;

(B) The costs of the energy audit; and

(C) The costs and reserves of the program.

(b) Charge the borrower an interest rate on the principal amount that is sufficient to pay the financing costs of the program, including loan delinquencies.

(c) Charge periodic fees to pay for program costs.

(6) The local government implementing the program that lends money for qualifying real property may:

(a) Secure the loan with a lien on the benefited qualifying real property in the manner and with the same priority as a lien for assessments for local improvements authorized by ORS 223.393.

(b) Assess the benefited qualifying real property for the amounts due under a loan agreement.

(c) Enforce a lien and collect an assessment authorized by this section as provided in ORS 223.505 to 223.650.

(d) Secure a loan in any other manner that the local government determines is reasonable.

(7) In lieu of enforcing liens and collecting assessments as provided in subsection (6) of this section, a local government may certify the assessment, in the manner provided in ORS 310.060, to the county assessor of each county in which benefited qualifying real property is located. If the assessments are certified as provided in this subsection, the county assessor shall:

(a) Enter the assessment upon the county assessment roll against the property described in the certificate, in the manner that other local government assessments are entered;

(b) Collect, account for and enforce the assessments in the manner that local government taxes are collected, accounted for and enforced; and

(c) Transfer, as provided by law, the assessments collected to the local government that imposed the assessment.

(8) A local government may issue revenue bonds pursuant to ORS 287A.150 to finance program costs, including the costs of making loans for energy improvements.

(9) The State Department of Energy may lend money under the provisions of ORS 470.060 to 470.080 and 470.090 to a local government that establishes a program under this section in cooperation with a local government implementing a program under this section.

ENERGY RESOURCE SUPPLIERS

SECTION 76. ORS 469.421 is amended to read:

469.421. (1) Subject to the provisions of ORS 469.441, any person submitting a notice of intent, a request for exemption under ORS 469.320, a request for an expedited review under ORS 469.370, a request for an expedited review under ORS 469.373, a request for the State Department of Energy to approve a pipeline under ORS 469.405 (3), an application for a site certificate or a request to amend a site certificate shall pay all expenses incurred by the Energy Facility Siting Council, the State Department of Energy and the Oregon Department of Administrative Services related to the review and decision of the council. These expenses may include legal expenses, expenses incurred in processing and evaluating the application, issuing a final order or site certificate, commissioning an independent study by a contractor, state agency or local government under ORS 469.360, and changes to the rules of the council that are specifically required and related to the particular site certificate.

(2) Every person submitting a notice of intent to file for a site certificate, a request for exemption or a request for expedited review shall submit the fee required under the fee schedule established under ORS 469.441 to the State Department of Energy when the notice or request is submitted to the council. To the extent possible, the full cost of the evaluation shall be paid from the fee paid under this subsection. However, if costs of the evaluation exceed the fee, the person submitting the notice or request shall pay any excess costs shown in an itemized statement prepared by the council. In no event shall the council incur evaluation expenses in excess of 110 percent of

ATTACHMENT B

LC 125

1/13/10 (DLT/ps/ss)

DRAFT

SUMMARY

Clarifies provisions related to energy efficiency and sustainable technology loan program. Allows Director of State Department of Energy by rule to establish base efficiency package fee.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to financing energy efficiency; creating new provisions; amending
3 ORS 470.530, 470.575, 470.610, 470.635, 470.640, 470.655 and 470.660 and
4 sections 42 and 49, chapter 753, Oregon Laws 2009; repealing section 46a,
5 chapter 753, Oregon Laws 2009; and declaring an emergency.

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

7 **SECTION 1.** ORS 470.505 does not apply to the pilot programs de-
8 scribed in sections 42 to 45, chapter 753, Oregon Laws 2009.

9 **SECTION 2.** ORS 470.575 is amended to read:

10 470.575. (1) The Loan Offset Grant Fund is established in the State
11 Treasury, separate and distinct from the General Fund. Interest earned by
12 the Loan Offset Grant Fund shall be credited to the Loan Offset Grant Fund.
13 Moneys in the fund are continuously appropriated to the State Department
14 of Energy for use as provided in this section.

15 (2) The fund shall consist of any moneys directed by law, gift, grant or
16 donation to the fund **and moneys from base efficiency package fees col-**
17 **lected pursuant to ORS 470.655.**

18 (3) The department shall use fund moneys:

19 (a) To promote energy efficiency, renewable energy and energy conserva-
20 tion projects that would otherwise result in a marginally higher overall cost

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

1 to the applicant when energy costs and the financing and repayment costs
2 for the project are considered, by using the fund moneys to help produce a
3 monthly cost savings for the applicant; or

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

6 **SECTION 3.** ORS 470.635 is amended to read:

7 470.635. (1) The State Department of Energy may not complete an agree-
8 ment for the issuance of an energy efficiency and sustainable technology
9 loan unless the sustainable energy project manager, a contractor designated
10 by the project manager or a person approved by the department completes
11 an energy savings projection or similar evaluation for the property that will
12 benefit from the small scale local energy project. The projection or other
13 evaluation shall be in writing and shall, at a minimum, identify the follow-
14 ing:

15 (a) The recommended base efficiency package for the structure. A base
16 energy package may include improvements to existing supply lines and
17 equipment.

18 (b) Any optional package recommended for the structure.

19 (c) The estimated net monthly cost to the applicant when energy savings,
20 project repayment costs, tax or other incentives, loan offset grants, **base**
21 **efficiency package fees** and other relevant economic factors are considered.

22 (d) The monthly cost to the applicant to repay the loan principal and fi-
23 nance charges.

24 (e) If the base efficiency package or recommended optional package in-
25 cludes the use of nontraditional technology, a description of the nontradi-
26 tional technology.

27 (2) A base efficiency package or optional package may not provide for
28 achieving energy efficiency upgrades through the use of appliances or other
29 equipment that lack sufficient relationship to the structure to be subject to
30 a fixture filing or real property lien.

31 (3) The projection or other evaluation shall state in a clear and conspic-

1 uous manner:

2 (a) That the estimated net monthly cost to the applicant contained in the
3 projection or other evaluation does not represent a guarantee of project
4 performance or results; and

5 (b) That no liability attaches to the department, any state agency or of-
6 ficer, the project managers or any utility if actual energy savings are less
7 than the estimated savings or if the construction process or constructed
8 project is unsatisfactory in any way.

9 (4) If the base efficiency package or recommended optional package in-
10 cludes the use of nontraditional technology, the projection or other evalu-
11 ation shall include a statement that the technology is nontraditional,
12 initialed by the prospective loan applicant.

13 (5) An energy efficiency and sustainable technology loan may be used only
14 for a project constructed by a contractor certified under ORS 701.119.

15 (6) Prior to the disbursement of the loan moneys to the contractor, a
16 project manager or other person approved by the department shall verify that
17 the small scale local energy project has been completed in a manner con-
18 sistent with energy efficiency and sustainable technology loan program re-
19 quirements. If this state or any agency of this state adopts or recognizes an
20 energy efficiency scoring system for buildings, the department may require
21 that the verification described in this subsection include the determination
22 of an energy efficiency score for the property benefited by the project.

23 (7) The department shall periodically consult with contractors certified
24 under ORS 701.119 for the purpose of updating average cost and projected
25 savings figures used for energy savings projections or other evaluations un-
26 der this section. The department shall encourage the use of methods for
27 conducting energy savings projections or other evaluations under this sec-
28 tion that are cost-effective and time-effective, take advantage of economies
29 of scale and produce results that are accurate and are replicable for equiv-
30 alent base energy packages.

31 **SECTION 4.** ORS 470.655 is amended to read:

1 470.655. (1) Except as provided in ORS 470.650, an applicant for an energy
2 efficiency and sustainable technology loan approved by the State Department
3 of Energy shall pay the department a project initiation fee. Upon request of
4 the loan applicant, the department may add all or part of a project initiation
5 fee to the principal of an issued loan. The department may establish the fee
6 amount by rule, not to exceed four percent of the approved loan amount. If
7 the department does not establish the fee amount, the fee shall be two per-
8 cent of the approved loan amount.

9 **(2) The Director of the State Department of Energy may by rule**
10 **establish a base efficiency package fee for energy efficiency and**
11 **sustainable technology loans if the loans are not financed by moneys**
12 **from the Loan Offset Grant Fund. The fee may not exceed _____ per-**
13 **cent of the estimated economic benefit for the base efficiency package.**
14 **Any fees collected by the department under this subsection shall be**
15 **deposited in the fund.**

16 **SECTION 5. ORS 470.610 is amended to read:**

17 470.610. (1) The State Treasurer, at the request of the Director of the
18 State Department of Energy, from time to time may issue and sell revenue
19 bonds in the name of and on behalf of the State of Oregon in compliance
20 with the applicable provisions of ORS chapter 286A in the principal amount
21 *[the director considers]* necessary to carry out the purposes of ORS 470.500
22 to 470.710, or for paying or refunding any revenue bonds previously issued
23 on behalf of the State Department of Energy for those purposes. At least
24 **once every _____, the director shall estimate the anticipated demand**
25 **for loans under the energy efficiency and sustainable technology loan**
26 **program, and shall make a written declaration of this amount to the**
27 **State Treasurer.**

28 (2) All bonds shall be special revenue obligations of the State of Oregon,
29 and, unless paid from the proceeds of other bonds, shall be payable as to
30 principal, redemption premium, if any, and interest, through the Energy
31 Revenue Bond Repayment Fund solely from the revenues, moneys and other

1 assets of the Energy Project Bond Loan Fund and the Energy Project Sup-
2 plemental Fund that may be pledged for that payment. The Director of the
3 State Department of Energy shall determine for each fiscal quarter the
4 amount that will fall due during that fiscal quarter for bonds issued under
5 this section, other amounts described in ORS 470.585 and any expected sig-
6 nificant changes in bond obligations for upcoming fiscal quarters and the
7 amount necessary to adequately fund reserves. The director shall request
8 that the State Treasurer make transfers from the Energy Project Bond Loan
9 Fund and Energy Project Supplemental Fund to the Energy Revenue Bond
10 Repayment Fund as the director believes prudent to ensure the continuing
11 payment of maturing obligations and the funding of reserves.

12 (3) Prior to an issuance of revenue bonds under this section, the director
13 shall prepare and sign a written declaration setting forth the amount of the
14 bonds to be issued and the terms and conditions for issuance. If the State
15 Treasurer approves the declaration, the State Treasurer shall certify the ap-
16 proval on the declaration. The approved declaration shall be known as an
17 "energy revenue bond declaration." Each bond declaration shall be deemed
18 to be and shall constitute conclusive proof of the authorization to issue the
19 bonds described in the bond declaration and may contain further pledges and
20 covenants as determined by the director or the State Treasurer.

21 **SECTION 6.** ORS 470.640 is amended to read:

22 470.640. (1) Except as provide in subsection (2) of this section, the amount
23 of an energy efficiency and sustainable technology loan may not exceed
24 \$40,000[.] **for residential dwellings served by a single meter of the utility**
25 **that is to provide on-bill financing. The loan limit described in this**
26 **subsection does not apply to other buildings such as multifamily**
27 **housing and mixed-use structures.**

28 (2) The loan amount limit described in subsection (1) of this section shall
29 increase annually on January 1 of each year, beginning January 1, 2011. The
30 loan amount limit shall increase from the most recently established loan
31 amount limit by a percentage equal to the percentage increase in the

1 Portland-Salem Consumer Price Index for All Urban Consumers for All Items
2 as reported by the Bureau of Labor Statistics of the United States Depart-
3 ment of Labor.

4 **SECTION 7.** ORS 470.660 is amended to read:

5 470.660. (1) ***[If]*** All investor-owned utilities, except those that have
6 withheld consent under ORS 470.510 (3), shall establish on-bill financ-
7 ing systems. After an investor-owned utility serving a sustainable energy
8 territory has established an on-bill financing system, an energy efficiency
9 and sustainable technology loan shall be repaid by on-bill financing unless
10 the loan agreement specifies that the State Department of Energy and the
11 borrower have agreed to an alternative method for ensuring repayment of the
12 loan.

13 (2) Unless the Public Utility Commission grants an investor-owned utility
14 a waiver under subsection (4) of this section, the on-bill financing system of
15 the utility must:

16 (a) Enable a customer to make a single payment to satisfy the periodic
17 utility charges and repayment on an energy efficiency and sustainable tech-
18 nology loan;

19 (b) Provide a clearly identifiable line item or separate statement in the
20 utility bill that shows the energy efficiency and sustainable technology loan
21 repayment amount; and

22 (c) Direct energy efficiency and sustainable technology loan repayment
23 amounts collected by the utility to the appropriate sustainable energy project
24 manager or to the department for deposit to the credit of the Small Scale
25 Local Energy Project Administration and Bond Sinking Fund, Energy
26 Project Bond Loan Fund or Energy Project Supplemental Fund.

27 (3) The Public Utility Commission shall adopt rules for the use of on-bill
28 financing by investor-owned utilities. The rules may include, but need not
29 be limited to, rules regarding nonpayment, insufficient payment, delinquency
30 notices, repayment charge transfers, processing fees, late fees and refunds.
31 The commission may not adopt any rule that imposes responsibility for the

1 repayment of an energy efficiency and sustainable technology loan on the
2 utility.

3 (4) The commission may waive the requirement that an investor-owned
4 utility provide on-bill financing for one or more loans if the commission de-
5 termines that providing the on-bill financing is not practicable. If the com-
6 mission grants a utility a waiver under this subsection, the utility shall bill
7 the affected customers for loan repayment separately from any utility cus-
8 tomer meter billings.

9 **SECTION 8.** ORS 470.530 is amended to read:

10 470.530. (1) Except as provided in subsection (5) of this section, the Di-
11 rector of the State Department of Energy may establish qualifications for
12 sustainable energy project managers and may exercise oversight to ensure
13 project manager compliance with those qualifications. A project manager
14 shall provide the promotion, technical and financial support and verifications
15 necessary to administer the energy efficiency and sustainable technology
16 loan program in the territory served by the project manager.

17 (2) The project manager shall serve a sustainable energy territory estab-
18 lished by the director. The project manager shall provide loan program in-
19 formation and technical and financial information to promote energy
20 efficiency and use of renewable energy at the neighborhood and community
21 levels. The project manager shall be responsible for small scale local energy
22 project verification and for monitoring program effectiveness for energy ef-
23 ficiency and sustainable technology loans and small scale local energy pro-
24 gram loans. The project manager may administer the energy efficiency and
25 sustainable technology loan program within the territory.

26 (3)(a) Except as provided in this subsection, the boundaries of a
27 sustainable energy territory must be consistent with the service territory of
28 a local electric utility.

29 (b) The boundaries of a sustainable energy territory may be consistent
30 with the service territory of a local gas utility if:

31 (A) The local electric utility is a consumer-owned electric utility that

1 elects not to be the project manager for the sustainable energy territory; and

2 (B) The service territory of the local electric utility and the service ter-
3 ritory of the local gas utility overlap.

4 (c) Notwithstanding paragraphs (a) and (b) of this subsection, if the
5 project manager for the sustainable energy territory is other than the Public
6 Purpose Fund Administrator or a consumer-owned utility, the director may
7 adjust the boundaries of the territory or create a larger or smaller territory
8 if the director believes that the territory boundaries as adjusted or created
9 by the director would better accomplish the goals of the energy efficiency
10 and sustainable technology loan program.

11 (4) A **city, county, metropolitan service district or other** local gov-
12 ernment **entity, or a** nonprofit, for-profit, tribal or state entity, may be a
13 project manager if the entity meets the qualifications established by the di-
14 rector under this section and is approved by the director to provide pro-
15 motion, outreach and customer support related to the energy efficiency and
16 sustainable technology loan program within a sustainable energy territory.
17 The Public Purpose Fund Administrator is an ex officio sustainable energy
18 project manager. The Public Purpose Fund Administrator shall act as the
19 project manager in any sustainable energy territory that is not served by
20 another project manager.

21 (5) The director shall establish a sustainable energy project manager
22 certification program. However, the Public Purpose Fund Administrator or
23 a consumer-owned utility is not required to obtain a sustainable energy
24 project manager certificate and the Public Purpose Fund Administrator is
25 not subject to any qualifications established by the director for a project
26 manager.

27 **SECTION 9. Section 10 of this 2010 Act is added to and made a part**
28 **of ORS chapter 470.**

29 **SECTION 10. All investor-owned utilities and consumer-owned**
30 **utilities that have energy efficiency and sustainable technology loan**
31 **programs shall, at the request of the Director of the State Department**

1 of Energy, provide the director with the following information re-
2 garding the loans:

3 (1) Repayment performance;

4 (2) Default rates;

5 (3) Energy savings data; and

6 (4) Any other information specified by rule adopted by the director
7 pursuant to ORS 470.140.

8 **SECTION 11.** Section 42, chapter 753, Oregon Laws 2009, is amended to
9 read:

10 **Sec. 42.** (1) The Director of the State Department of Energy shall initiate
11 the energy efficiency and sustainable technology loan program described in
12 *[sections 2 to 41 of this 2009 Act]* **ORS 470.500 to 470.710** in phases through
13 a series of pilot programs, limiting the geographic availability and other
14 features of the program as the director considers necessary to facilitate an
15 orderly and successful implementation of the program. The director shall
16 initiate the program **on a statewide basis** as quickly as the director con-
17 siderers practicable, **but in no event later than June 30, 2011**, to achieve the
18 benefits of the program while ensuring high participant satisfaction and
19 program integrity.

20 (2) The director shall endeavor to establish pilot programs initially in
21 sustainable energy territories that reflect a variety of population densities.
22 The director may give preference to territories that request to participate in
23 the pilot program.

24 **SECTION 12.** (1) The amendments to ORS 470.635 by section 3 of this
25 2010 Act apply to energy savings projections or similar evaluations
26 completed on or after the effective date of this 2010 Act.

27 (2) The amendments to ORS 470.655 by section 4 of this 2010 Act
28 apply to energy efficiency and sustainable technology loans approved
29 on or after ____.

30 (3) The amendments to ORS 470.610 by section 5 of this 2010 Act
31 apply to revenue bonds for which the Director of the State Department

1 of Energy submits a written declaration pursuant to ORS 470.610 (3)
2 to the State Treasurer on or after the effective date of this 2010 Act.

3 (4) The amendments to ORS 470.640 by section 6 of this 2010 Act
4 apply to energy efficiency and sustainable technology loans approved
5 on or after ____.

6 **SECTION 13.** The amendments to ORS 470.660 by section 7 of this
7 2010 Act become operative ____.

8 **SECTION 14.** (1) Section 1 of this 2010 Act is repealed January 2,
9 2016.

10 (2) Section 46a, chapter 753, Oregon Laws 2009, is repealed.

11 **SECTION 15.** Section 49, chapter 753, Oregon Laws 2009, is amended to
12 read:

13 **Sec. 49.** Sections 42, 43, 44, 45, 46[46a] and 47a, chapter 753, Oregon
14 Laws 2009, [of this 2009 Act] are repealed January 2, 2016.

15 **SECTION 16.** This 2010 Act being necessary for the immediate
16 preservation of the public peace, health and safety, an emergency is
17 declared to exist, and this 2010 Act takes effect on its passage.

18
