

Oregon law requires a Public Body to spend 1.5% of the total construction cost of a building for installation of Green Energy Technology

Q: When did the requirement start for a public body to spend 1.5% of the total contract price of a building for Green Energy Technology?

A: In 2007, House Bill 2620 established the requirement for a public body to spend 1.5% of the total contract price of a building on solar technology. In 2012, the law was amended by Senate Bill 1533 to allow geothermal technology to also meet the requirement beginning January 1, 2013. House Bill 3169 in the 2013 legislative session further amended the law by adding certain requirements for green energy technology installed away from the building site and specifying reporting requirements.

Q: What is a Green Energy Technology?

A: Green Energy Technology is defined in ORS 279C.527 as renewable energy technologies that meet the requirement of HB 3169. They include:

- Solar technologies, which include photovoltaic, solar hot water, passive solar and day lighting; and
- Geothermal systems that use geothermal source temperatures of 140° F or more to provide heating or make electricity. Ground source heat pumps do not meet the requirement.

Q: Who must comply with the 1.5% for Green Energy Technology requirement?

A: All public bodies in Oregon must comply with the 1.5% requirement for green energy technology. Public bodies include state agencies, cities, counties, local service districts, and special government bodies including school districts, education service districts, community college districts, and public corporations created by state statute, amongst others. Members of the Oregon University System are exempt from the green energy technology requirement.

Q: Which buildings must comply with the 1.5% for Green Energy Technology requirement?

A: The requirement applies to any new, public building with construction costs more than \$1,000,000 and any existing building that is being renovated where the construction cost exceeds \$1,000,000 and 50% of the insured value of the building. The building must be owned or controlled by a public body and either used for conducting public business or occupied by employees of the public body.

Q: If a building is to be built with private and public funds, do the private funds need to be included in the total contract price?

A: If the building has both private and public funding and the subsequent ownership of the building will be shared by the private and public entities, the 1.5% amount should be calculated on the public funding portion.

If the project is built with any amount of private funding with the intention that the building will be donated or sold to a public body upon completion of construction, the 1.5% must be calculated on the total contract price.

Q: Can a public body purchase “green power” from a utility to satisfy the 1.5% requirement?

A: No, purchase of green power or Renewable Energy Certificates does not meet the requirement. Also, the energy supplied by the system must be used at the building site.

Q: How does a public body show that they have met the requirement?

A: The law requires all public bodies with a building project that is subject to the green energy technology requirement to report the project information to the Oregon Department of Energy (ODOE). The public body reports the project on an electronic form on the ODOE website once the technology is designed, but before construction of the technology system begins.

<http://greenenergytechnology.odoe.state.or.us/>

Q: What if the information entered into the green technology database (such as the design of the green energy technology system or the calculated energy production of the green technology system) changes after the public body has reported the project in the database? Is the public body responsible for correcting the information in the database?

A: After the occupancy date that the public body entered in the reporting form, ODOE staff will communicate with the public body’s contact person to learn of any significant changes to the cost, design, etc., and will correct the information in the database. The public body is not able to change information in the database once the reporting form is submitted, but may request at any time that ODOE staff make changes to its project information.

Q: What if the public body considers a green technology system to be inappropriate for its building, for instance if the building is in the shadow of a larger building that blocks its access to solar and there is no geothermal source for the building?

A: If the public body considers green energy technology inappropriate for the building site, it must consider installing green energy at an alternate location. The law allows for locating the green energy technology offsite, provided the offsite location meets certain requirements. The energy produced at either location must be used at the building site.

If the public body plans to install green energy technology at an alternate site, it must contact ODOE to request an evaluation of its decision by the technical review panel. The public body must provide information about the site and the cost of the green technology system at each location. The technical panel reviews the public body’s analysis and provides its recommendation in writing to the public body.

If the public body considers green technologies inappropriate both onsite and offsite, the public body must submit its reasoning to the technical review panel. The technical review panel will consider the documentation provided by the public body and determine whether it agrees or disagrees with the

assessment. If the technical review panel disagrees with the public body's assessment, it can make a recommendation to the public body that the green energy technology should be installed.

Q: What type of questions will the technical review panel address?

A: The purpose of the technical review panel is to analyze the feasibility of installing green energy technology at the building site or an alternate site. Its role is not to review legal questions about the statute or rules.

Q: Who makes up the technical review panel and how does a public body contact the panel?

A: Among others, the technical review panel consists of a professional engineer or architect, a member of a public body, a solar or geothermal technical expert, and ODOE staff.

A public body may request a technical review of its decision by contacting Rob Del Mar at ODOE at (503) 302-7027 or robert.delmar@odoe.state.or.us. ODOE will engage the technical review panel.

Q: What if the public body disagrees with the technical review panel recommendation?

A: After review of the technical review panel recommendation, the public body makes the final determination whether the green energy technology is appropriate for the building. This determination is reported to ODOE along with the determination from the technical review panel.

<http://greenenergytechnology.odoe.state.or.us/>

Both determinations will be included in ODOE's annual report to the legislature.

Q: If the public body makes the final decision that the technology is inappropriate for the building, does this complete the process?

A: The public body must report to ODOE information about the project and its decision not to install green energy technology. If no state funds are used for the construction/renovation of the public building, there is no further requirement.

However, if state funds are included in the construction/renovation funding, the public body must set aside 1.5% of the total contract price to be held in an account for use in the next project that it builds. The amount set aside must be added to the 1.5% of the future project cost to be used for green energy technology.

Q: Does the public body only have to defer 1.5% of the state-funded portion of the contract?

A: The deferred amount must be 1.5% of the total contract price, not just the state-funded portion.

Q: How long does the public body have to keep this account open?

A: The law does not set a time limit for maintaining the account, other than to say that the money is to be used for the next project built by the public body.