

## 1.5 Percent for Green Energy Technology: Oregon Law for Public Bodies Constructing New Buildings

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**Q: When did the requirement start for a public body to spend 1.5 percent of the total contract price of a public building for green energy technology?**

A: In 2007, HB 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, SB 1533 amended the law to include geothermal technology beginning Jan. 1, 2013. In 2013, HB 3169 added requirements for green energy technologies installed at an alternate site and specified reporting requirements. In 2015, HB 2987 modified requirements for holding unspent funds in an identified account, effective January 1, 2016, however those funds must still be spent on a future building project. Also in 2015, HB 3329 modified the minimum geothermal source temperatures for K-12 public schools, effective October 5, 2015.

**Q: What is a green energy technology?**

A: ORS 279C.527 defines green energy technology as renewable energy technologies that meet the requirements specified in HB 3169. They include:

- Solar technologies such as photovoltaic and solar thermal
- Passive solar and day lighting systems that reduce whole building energy use by 20% or more
- Geothermal systems that use geothermal source temperatures of 140° F or more to provide heating or make electricity. Geothermal systems installed in k-12 school buildings may use a source temperature of 128° F or more. Ground source heat pumps do not meet this requirement.

**Q: Who must comply with the 1.5 percent 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. Members of the Oregon University System are exempt from the green energy technology requirement.

**Q: Which buildings must comply with the 1.5 percent 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 costs exceed \$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 constructed using 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 building owners purchase “green power” from a utility to satisfy the 1.5 percent requirement?**

A: No. The 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 do building owners show that they have met the requirement?**

A: The law requires all public bodies to report green energy project information to the Oregon Department of Energy. Prior to installation, public bodies have to submit details about the technology design using an electronic form on the ODOE website <http://greenenergytechnology.odoe.state.or.us/>.

If a public body determines that green energy technology is inappropriate, it must also report that determination in the electronic form.

**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 submitting the project report? Who is responsible for making changes?**

A: Once submitted, a public body cannot make changes to the form but may request at any time that ODOE staff make changes to its project information. After the occupancy date that was 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.

**Q: What if a building owner considers a green technology system inappropriate for a particular building? For example, if the building is shaded by a larger building, blocking access to the sun, and there is no geothermal source for the building.**

A: The law allows for locating the system at an alternative location provided the offsite location meets certain requirements. The energy produced at either location must be used at the building site. Any public body planning to use an alternate location has to contact ODOE and request a review from the “technical review panel” organized by ODOE. The public body submits in writing the reasons for the decision, including site details and cost of the green technology system for each location. The panel reviews the owner’s assessment and offers recommendations in writing.



*Solar installation at Junction City Hospital*

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 a green energy system at a 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 panel includes a professional engineer or architect, a member of a public body, a solar or geothermal technical expert and an ODOE employee.

A public body may request a technical review by contacting Rob Del Mar at the Oregon Department of Energy, 503-302-7027 or [robert.delmar@odoe.state.or.us](mailto:robert.delmar@odoe.state.or.us).

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

A: The public body should review the panel's recommendations before making a final decision whether or not to install a green energy system, then submit its conclusions along with that of the review panel's to ODOE at <http://greenenergytechnology.odoe.state.or.us/>. ODOE will include both determinations in its annual report to the Legislature.

**Q: If a public body makes a 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 a system. If no state funds are used for construction and renovation, there is no further requirement.

However, if state funds are included in the construction/renovation funding, the public body must spend 1.5% of the total contract price on the next project that it builds and must report the unspent amount in the 1.5% GET Reporting Form <http://greenenergytechnology.odoe.state.or.us/>. The amount not spent must be added to 1.5% of the total project cost of the future building for installation of green energy technology. The aggregated amount spent must be reported at the time of the next project construction.

**Q: Does the public body only have to spend 1.5 percent of the state-funded portion of the current contract on the future project?**

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