

BILL BRADBURY  
SECRETARY OF STATE



ELECTIONS DIVISION  
JOHN LINDBACK  
DIRECTOR  
141 STATE CAPITOL  
SALEM, OREGON 97310-0722  
ELECTIONS — (503) 986-1518

September 21, 2007

To All Interested Parties:

Secretary of State Bill Bradbury is responsible for the pre-election review of proposed initiative petitions for compliance with the procedural constitutional requirements established in the Oregon Constitution for initiative petitions. This review will be completed before approving the form of the cover and signature sheets for the purpose of circulating the proposed initiative petition to gather signatures.

The Secretary of State is seeking public input on whether proposed initiative petition (#135), satisfies the procedural constitutional requirements for circulation as a proposed initiative petition. Petition #135 was filed in our office on September 20, 2007, by John Bartels, George Wingard and Phyllis Wilson, for the General Election of November 4, 2008.

Enclosed is a copy of the text of this proposed initiative petition. If you are interested in providing comments on whether the proposed initiative petition meets the procedural constitutional requirements, please write to the secretary at the Elections Division in the State Capitol. Your comments, if any, must be received by the Elections Division no later than October 12, 2007, in order for them to be considered in the review.

BILL BRADBURY  
Secretary of State

BY:

Carla Corbin  
Compliance Specialist

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

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4 **SECTION 1. This Act shall be known as, " The Oregon Electric Power and Fuel**  
5 **Security, Renewable Energy Development Act of 2008. "**

6

7 **SECTION 2. The purpose of this Act is to obtain and assure reliable, dependable, stable,**  
8 **adequate, economically affordable and environmentally affordable supplies of power,**  
9 **energy, electric power, fuels and fuel feedstocks for the people of Oregon, their**  
10 **businesses and agriculture. This shall be done by a three member non-partisan elected**  
11 **Commission prescribed by Article XI-D of the Oregon Constitution through any of the**  
12 **following means:**

13

14 **(1) Implementing energy reliability planning and emergency preparedness in**  
15 **coordination with: any utility and transmission system entity, the federal and state and**  
16 **provincial governments, and agencies thereof (including, but not limited to, the Oregon**  
17 **National Guard, the U.S. Department of Homeland Security and the Federal Emergency**  
18 **Management Agency), local governmental bodies and with any American Indian Tribal**  
19 **government.**

20

21 **(2) Obtaining and acquiring any supplies of power, energy, electric power, fuels and fuel**  
22 **feedstocks for the people of Oregon from existing available sources.**

23

24 **Obtaining, acquiring and developing new supplies from renewable sources and materials**  
25 **including, but not limited to: energy conservation, energy efficiency, energy storage,**  
26 **water power, hydroelectric, pumped storage, cogeneration, compressed air, wind, wave,**  
27 **tidal, geothermal, solar, hydrogen, methane, biomass, cellulose, bio-oil, alcohol, but not:**  
28 **petroleum, petroleum-based oil, coal, natural gas, liquefied natural gas (LNG), nuclear**  
29 **(radioactive) fissionable materials even when called "alternative energy."**

30

31 **(3) Providing the public of Oregon with technical assistance, engineering assistance,**  
32 **planning assistance and legal assistance in forming new People's Utility Districts**  
33 **(PUD's), municipal utilities and joint operating agencies, comprised of public bodies,**  
34 **cooperatives and Indian Tribes and in reviving inactive People's Utility Districts and**  
35 **municipal utilities and upgrading and expanding such existing entities. This assistance**  
36 **may include providing the Oregon public with access to technical, engineering,**  
37 **development, legal, land use planning, power planning, power supply and financial**  
38 **reports, studies, analyses, data, communications and evidence created by private**  
39 **individuals, private entities, public bodies, legislative and all governmental bodies and**  
40 **agencies.**

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SECRETARY OF THE STATE  
BILL BRADBURY

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1 (4) Developing, testing and producing new supplies of power, energy, electric power,  
2 fuels and fuel feedstocks from renewable sources. Joining others in and assisting them in  
3 developing, testing and producing new supplies of power, energy, electric power, fuels  
4 and fuel feedstocks from renewable sources.

4 (5) Developing, obtaining, acquiring, testing and upgrading electric power transmission  
5 and distribution systems and facilities. Joining others in and assisting them in developing,  
6 obtaining, acquiring, testing and upgrading electric power transmission and distribution  
7 systems and facilities.

8 (6) Developing, obtaining, acquiring, testing and upgrading electric power generation  
9 systems and facilities.

10 (7) Developing, obtaining, acquiring, upgrading, testing fuels, fuel feedstocks and fuel  
11 production, transmission, distribution, storage and utilization systems and facilities  
12 including pipelines. Joining others in and assisting them in developing, obtaining,  
13 acquiring, testing and upgrading fuels, fuel feedstocks and fuel production, transmission,  
14 distribution, storage and utilization systems and facilities including pipelines.

14 (8) Developing, testing and upgrading energy conservation, energy efficiency and energy  
15 storage technologies and plans. Joining others in and assisting them in developing, testing  
16 and upgrading such energy technologies and plans.

16

17 **SECTION 3.** As used in Sections 1 to 29 of this Act:

18 (1) "Commission" means the Oregon Energy Development Commission established  
19 under Section 4 of this Act.

20 (2) "Department" means the Oregon Department of Energy.

21 (3) "Development project" or "project" means a project for the construction and  
22 operation of a water power, renewable energy, electric power, fuel facility, any energy  
23 conservation, energy efficiency or energy storage project or technology and any facility  
24 or technology authorized under this Act and any real or personal property necessary to  
25 construct, operate or maintain such facility.

25 (4) "Public body" means the State of Oregon, People's Utility Districts under ORS  
26 Chapter 261 and cities, including agencies or jointly-operated agencies of those public  
27 bodies and also includes Indian Tribes and special purpose public districts and  
28 authorities.

29 (5) "Cooperative" means any form of nonprofit organization of citizens supplying, or that  
30 may be created to supply, members with any kind of goods, commodities or services, as  
31 nearly possible at the cost to the cooperative and any electric cooperative.

31

1 (6) "Fuel" means a renewable material used to produce heat, power, energy or electric  
2 energy including: alcohol even when mixed with gasoline, but not including coal, oil,  
3 natural gas, liquefied natural gas or nuclear (radioactive) fissionable material.

4 (7) "Fuel feedstock(s)" means a renewable material convertible to fuels.

5 (8) "Renewable energy" means energy and fuels from renewable sources and materials  
6 including, but not limited to: energy conservation, energy efficiency, energy storage,  
7 water power, hydroelectric, pumped storage, cogeneration, compressed air, wind, wave,  
8 tidal, geothermal, solar, hydrogen, methane, biomass, cellulose, bio-oil, alcohol, but not:  
9 petroleum, petroleum-based oil, coal, natural gas, liquefied natural gas (LNG), nuclear  
(radioactive) fissionable materials even when called "alternative energy."

10 **SECTION 4.** This Act implements Article XI-D of the Oregon Constitution. There is  
11 created the Oregon Energy Development Commission as an agency of the state consisting  
12 of three members elected on a statewide, non-partisan basis as prescribed in Article XI-D  
13 of the Oregon Constitution. The positions of the members shall be designated positions  
14 one, two and three and members shall serve for a term of office of six years, except as  
described in Section 5.

15 **SECTION 5.** (1) The first members of the Commission shall be elected at a special  
16 statewide primary election held on May 19th, 2009 and, if one candidate does not win a  
17 majority of the votes cast for each position, at a special general election held on  
November 4th, 2009.

18 (2).(a) The member holding position number one shall serve a special three year term. In  
19 the primary election and general election of 2012 the position number one shall be filled  
20 for a full six year term.

21 (b) The member holding position number two shall serve a special five year term. In  
22 the primary election and general election of 2014 position number two shall be filled  
for a full six year term.

23 (c) The member holding position three shall serve a special seven year term. In the  
24 primary election and general election of 2016 position number three shall be filled for  
a full six year term.

25 (d) Successors of members shall be elected by position number for terms of six years.

26 (3) Members shall be elected without party designation.

27 (4) A vacancy in office of one or two members shall be filled as follows: By the members  
28 of the Commission subject to approval by the State Senate. If all the positions are vacant,  
the Governor shall fill the vacancies subject to approval by the State Senate. In the event  
29 of an emergency, or if the Senate does not meet, the members may serve a term of one  
30 year without approval by the State Senate. Any person appointed shall serve a term until

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1 the first Monday in the next January in odd numbered years. Following a vacancy there  
2 shall be a special election to fill the remainder of the term at the regular primary and  
3 general election dates.

4 **SECTION 6.** Members of the Commission shall be citizens of the United States and of  
5 this state and shall have lived in this state for not less than three years preceding the date  
6 of the commencement of the term of office to which they are elected or appointed.

7 **SECTION 7.** Except as provided in Sections 5, 6, and 7 of this Act, candidates for the  
8 office of Commissioner of this agency shall be nominated and elected in the same manner  
9 as candidates for the office of Judge of the Supreme Court are nominated and elected.  
10 The ballot shall be entitled "Oregon Energy Development Commission Ballot" and shall  
11 contain no other designation. The ballot may be printed upon the same sheet as the  
12 general ballot used at the election and will include a ballot slogan submitted by the  
13 candidate not to exceed twelve words.

14 **SECTION 8.** When the first members of the Commission are elected, the primary  
15 candidates shall file their declarations of candidacy 70 days before the date of the  
16 election. Not less than 70 days before the date of the special elections, the candidates may  
17 file with the Secretary of State portrait photo material and statements in support of their  
18 candidacy to be published in a state Voter's Pamphlet for that special primary and general  
19 election. In all subsequent elections the candidates for election to the Commission shall  
20 be included in the state Voter's Pamphlet in the same manner as other statewide offices.

21 **SECTION 9.** (1) The Commission shall elect one of its members as chairman and one as  
22 vice-chairman and shall appoint a secretary who is not a member of the Commission.

23 (2) A majority of the Commission shall constitute a quorum at its meetings. The decision  
24 of a majority of the Commission shall be considered the act and decision of the  
25 Commission.

26 **SECTION 10.** (1) Members of the Commission shall receive the same annual salary as  
27 paid to a judge of the Court of Appeals and reimbursement for actual and necessary  
28 traveling expenses incurred in the performance of official business of the Commission.

29 (2) Members of the Commission shall be subject to the people's power of recall as set  
30 forth in the Oregon Constitution.

31 **SECTION 11.** The Commission shall employ such staff and contract for such services as  
it considers necessary and convenient to accomplish the purposes of Sections 1 to 29 of  
this Act and Article XI-D of the Oregon Constitution.

- 1 **SECTION 12.** In carrying out the purposes of Sections 1 to 29 of this Act and Article  
2 **XI-D** of the Oregon Constitution, the Oregon Energy Development Commission may:
- 3 (1) In the event of an incident of terrorism or warfare, natural catastrophe, pandemic or  
4 epidemic, or other emergency and, upon a Declaration of a State of Emergency by the  
5 Governor, coordinate services or assume management of services, utilities, utility  
6 systems and transmission systems to attempt to ensure a reliable, adequate supply of  
7 electricity for the people of the state.
- 8 (2) Implement energy reliability planning, conservation planning and emergency  
9 preparedness in coordination with: any utility and transmission system entity, the federal  
10 and state government, and agencies thereof (including, but not limited to, the Oregon  
11 National Guard, the U.S. Department of Homeland Security and the Federal Emergency  
12 Management Agency), local governmental bodies and with any American Indian Tribal  
13 government.
- 14 (3) Hold hearings, subpoena witnesses, receive sworn testimony, examine and cross  
15 examine witnesses, subpoena testimony, subpoena electronic and paper documents,  
16 records, evidence, communications, memos, notes, letters, telephone records, emails, and  
17 produce findings.
- 18 (4) Negotiate compacts and agreements with the Federal Government or its agencies,  
19 Indian Tribes and any other state or its agencies and public bodies and cooperatives for  
20 the purposes of this Act and for implementing Article XI-D of the Oregon Constitution.
- 21 (5) Enter into contracts with any person relating to the functions and duties of the  
22 Commission.
- 23 (6) Sue and be sued, plead and be pled and intervene in any legal or rate making  
24 proceeding in furtherance of this Act.
- 25 (7) Sell or dispose of electric energy on a wholesale basis to public bodies and  
26 cooperatives for re-sale and distribute and sell electric energy.
- 27 (8) Purchase general obligation and revenue bonds issued by public bodies and securities  
28 issued by cooperatives for the purpose of:
- 29 (a) Acquiring, constructing, maintaining and operating hydroelectric plants,  
30 transmission and distribution lines and systems and facilities and energy conservation  
31 projects.
- (b) Developing, controlling, generating, transmitting, distributing, purchasing,  
contracting for selling, disposing of and conserving electric energy and fuels with  
special attention given to the distribution of electric energy and fuels to residential  
and agricultural consumers.
- (9) Acquire and dispose of real and personal property and exercise the power of eminent  
domain.

- 1 (10) With the assistance of the Oregon Department of Energy, undertake energy  
2 development and energy conservation projects designated under Section 13 of this Act  
3 and perform such functions as are necessary for that energy development and energy  
4 conservation.
- 5 (11) Control and develop the water power within the state.
- 6 (12) Lease water and water power sites for the development of water power or electric  
7 energy.
- 8 (13) Develop, generate, control, use, transmit, distribute, sell and dispose of electric  
9 energy and fuels and fuel feedstocks.
- 10 (14) Develop any water power within the state, and acquire, construct, maintain and  
11 operate hydroelectric power plants, transmission and distribution lines separately or in  
12 conjunction with the United States, or in conjunction with the political subdivisions of  
13 this state or another state or province, joint operating agencies, Indian Tribes, co-  
14 operatives or corporations.
- 15 (15) Develop separately or in conjunction with the United States or in conjunction with  
16 the political subdivisions of this state or another state or province, and their joint  
17 operating agencies, Indian Tribes, co-operatives or corporations and acquire, construct,  
18 maintain and operate fuel and fuel feedstock production facilities and fuel and fuel  
19 feedstock storage and distribution facilities, fuel pipelines and fuel utilization facilities.
- 20 (16) Contract with the United States, any political subdivision of this or another state or  
21 province, co-operatives or corporations, Indian Tribes or their joint operating agencies,  
22 for the purchase or acquisition of water, water power, electric energy, fuel or fuel  
23 feedstocks.
- 24 (17) Contract with the United States, any political subdivision of this or another state or  
25 province, co-operatives or corporations, Indian Tribes or their joint operating agencies,  
26 for the development of energy conservation projects.
- 27 (18) Fix, by rule, rates and charges for the use of water resources in the development of  
28 water power and for the sale and disposal of water power and electric energy, fuel and  
29 fuel feedstocks.
- 30 (19) Apply for, accept and disburse any private or federal assistance, gifts or grants,  
31 subject to the terms and conditions thereof, available for the performance of the functions  
of the Commission under Sections 1 to 29 of this Act.
- (20) Perform all other Acts, exercise all other powers and adopt rules the Commission  
considers necessary or convenient to effectuate the provisions and intent of Sections  
1 to 29 of this Act and Article XI-D of the Oregon Constitution.

1 **SECTION 13.** (1) Subject to sub-section (2) of this section and any other applicable  
2 provisions of law governing development projects, the Oregon Energy Development  
3 Commission shall designate and may, from time to time, revise its designation of

4 development projects to be undertaken under Sections 1 to 29 of this Act as follows:  
5 (a) After consulting with the Oregon Department of Energy, the Commission shall  
6 make preliminary designations of proposed development projects.

7 (b) Copies of the preliminary designations shall be sent for comment and  
8 recommendation within specified deadlines established by the Department to the  
9 Water Resources Director, the Water Policy Review Board, the State Department of  
10 Fish and Wildlife, the State Parks and Recreation Division of the Department of  
11 Transportation, the Land Conservation and Development Commission, the State  
12 Department of Geology and Mineral Industries and the Environmental Quality  
13 Commission.

14 (c) After review of comments and recommendations received by the deadline and  
15 consulting with the Department, the Commission shall designate the development  
16 projects to be undertaken.

17 (2) In designating development projects under subsection (1) of this section the  
18 Commission shall endeavor to designate as many projects as it determines are necessary  
19 to meet the needs of the state.

20 **SECTION 14.** To insure that the facilities and projects of the Oregon Energy  
21 Development Commission are operated for the benefit of the general public and  
22 particularly of domestic and rural consumers, the Commission shall:

23 (1) Endeavor to insure reliable and stable supplies of electric energy and fuel.

24 (2) In disposing of electric energy, give preference and priority to public bodies,  
25 cooperatives, and Indian Tribes.

26 (3) In expending moneys received from the sale of bonds under Section 19 of this Act,  
27 invest at least 75 percent of those moneys in publicly owned projects, developments or  
28 facilities and give a preference to cooperatives in investing the remainder of those  
29 moneys.

30 (4) Promote energy conservation and efficiency of energy use.

31 **SECTION 15.** In carrying out the functions under Section 12 of this Act, the  
Commission shall:

(1) Endeavor to insure that its development actions do not have an adverse effect on this  
state; and

(2) Endeavor to determine that the costs of its development will not exceed the public  
benefits expected to be received from that development.

1 **SECTION 16.** The Oregon Energy Development Commission shall not be considered a  
2 state agency subject to the provisions of ORS 291.002 to 291.028 in carrying out its  
3 constitutional powers under Article XI-D of the Oregon Constitution.

4 **SECTION 17.** Reducing the need for energy and fuels in this state shall be given  
5 consideration by the Oregon Energy Development Commission as a means of increasing  
6 the supply of available energy and fuels in this state. The Commission shall utilize its  
7 authority to develop and to control the use of electric energy in order to accomplish  
8 conservation of electric energy and development of energy and fuels, produced from  
9 renewable resources including, but not limited to, hydroelectric, pumped storage, wave,  
tidal, wind, solid waste, wood, alcohol, straw or other fiber, geothermal or solar  
resources.

10 **SECTION 18.** The Oregon Energy Development Commission and its activities under  
11 Sections 1 to 29 of this Act are not subject to regulation under the provisions of ORS  
12 Chapters 756, 757 and 758.

13 **SECTION 19.** There is established the Energy Development Fund. All moneys received  
14 by the Oregon Energy Development Commission under this Act shall be paid to the  
15 credit of the Energy Development Fund. All moneys in the fund are appropriated  
16 continuously to the Commission for the purpose of carrying out the provisions of  
Sections 11 and 12 of this Act.

17  
18 **SECTION 20.** The Oregon Energy Development Commission shall issue and sell such  
19 general obligation bonds and revenue bonds of the State of Oregon of the kind and  
20 character and within any limits prescribed by Article XI-D of the Oregon Constitution as  
21 are necessary to carry out its provisions and the provisions of Sections 11 and 12 of this  
Act.

22 **SECTION 21.** Except as provided in Section 23 of this Act, all moneys obtained from  
23 the sale of bonds under Sections 19 to 27 of this Act shall immediately be paid over to the  
24 State Treasurer and credited to the Energy Development Fund. The moneys shall be used  
25 only for the purposes stated in Sections 11 and 12 of this Act. Pending the use of those  
26 moneys for the proper purposes, the moneys may be invested in the manner provided by  
law. The Oregon Energy Development Commission may spend these funds.

27 **SECTION 22.** All bonds issued under Sections 19 to 27 of this Act shall contain a direct  
28 promise of the State of Oregon to pay the face value thereof, with interest on them at such  
29 rate or rates, payable semiannually, as the Oregon Energy Development Commission  
30 considers appropriate. The principal of and the interest upon the bonds, when due, shall  
31 be paid at the fiscal agency of the State of Oregon, in the City and State of New York.  
The charges imposed by the fiscal agency for its services shall be paid, upon approval by  
the State Treasurer from the Energy Development Bond Sinking Fund.

1 **SECTION 23.** Each issue of bonds under Sections 20 to 27 of this Act shall be payable  
2 in such principal installments and upon such maturity date or dates as determined by the  
3 Oregon Energy Development Commission, provided that the earliest maturity date of any  
4 of the bonds of an issue shall be not less than one year and the final maturity date not  
5 more than 30 years from the date of issue. In its discretion, the Commission may issue the  
6 bonds, as provided in ORS Chapter 286 with reservation of the right to redeem the bonds  
7 for retirement or refunding purposes prior to the final date or dates of maturity. The  
8 bonds and their coupons shall be negotiable in form and shall provide an absolute and  
9 unconditional promise of the State of Oregon to pay the principal of and the interest upon  
10 the bonds, when due, in any coin or currency which, at the time of payment, is legal  
11 tender for the payment of public and private debts within the United States of America.  
12 The bonds shall be signed by the Governor, the Secretary of State and the State  
13 Treasurer, as provided in ORS Chapter 286. The bonds shall bear coupons evidencing the  
14 interest to become due for each installment. The first coupon of each issue of bonds may  
15 be for a period of more or less than six months but of not more than one year, if, in the  
16 judgment of the Commission the issuance of bonds with those coupons is advisable. The  
17 coupons shall be executed with the facsimile signature, with the title of office of each of  
18 the officers designated in ORS Chapter 286.

14 **SECTION 24.** The State Treasurer shall make payment of the principal of and the  
15 interest on any bond issued under Sections 19 to 27 of this Act from the Energy  
16 Development Bond Sinking Fund.

17 **SECTION 25.** The Oregon Energy Development Commission may issue refunding  
18 bonds for the purpose of refunding outstanding bonds issued under Sections 19 to 27 of  
19 this Act. The refunding bonds may be sold in the same manner as other bonds are sold  
20 under Sections 19 to 27 of this Act. All moneys obtained from the sale of refunding  
21 bonds shall immediately be paid over to the State Treasurer and credited to the Energy  
22 Development Bond Sinking Fund. The refunding bonds may be issued to refund bonds  
23 originally issued or to refund bonds previously issued for refunding purposes. Pending  
24 the use of moneys obtained from the sale of refunding bonds for the proper purposes, the  
25 moneys may be invested in the manner provided by law.

24 **SECTION 26.** Bonds issued under Sections 19 to 27 of this Act shall be advertised and  
25 sold in the manner prescribed in ORS Chapter 287 and are subject to the restrictions of  
26 ORS Chapter 288, if any.

27 **SECTION 27.** The Oregon Energy Development Commission shall compute and  
28 determine in January of each year, after the sale of bonds under Sections 19 to 27 of this  
29 Act, the amount of principal and interest which will fall due during the year on bonds  
30 then outstanding and unpaid, and shall maintain or hold in the Energy Development Bond  
31 Sinking Fund sufficient moneys to pay those maturing obligations.

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1 **SECTION 28.** No general obligation bonds shall be issued or sold under sections 19 to  
2 27 of this Act nor indebtedness incurred thereunder, which, singly or in the aggregate  
3 with previous debts or liabilities incurred for the purposes of carrying out the provisions  
4 of Sections 11 and 12 of this Act exceed the limitation provided in Article XI-D of the  
Oregon Constitution at the date of issuance and sale of these bonds.

5 **SECTION 29.** (1) There hereby is created the Energy Development Bond Sinking Fund,  
6 separate and distinct from the General Fund, to provide for payment of:

7 (a) Administrative expenses of the Oregon Energy Development Commission,  
8 Oregon Energy Development Bond Sinking Fund and the State Treasurer in carrying  
9 out the duties, functions and powers imposed by Sections 19 to 27 of this Act.

(b) Principal and interest of all bonds issued under Sections 19 to 27 of this Act.

10 (2) The fund created by subsection (1) of this section shall consist of:

11 (a) All interest earned on the investment of bond proceeds.

12 (b) Moneys obtained from the sale of refunding bonds and any accrued interest on  
these bonds.

13 (c) Moneys received from ad valorem taxes levied pursuant to Article XI-D of the  
14 Oregon Constitution, if any, and all moneys that the Legislative Assembly may  
provide in lieu of these taxes.

15 (3) The moneys referred to in sub-section (2) of this section are continuously  
16 appropriated to the Commission and the State Treasurer for the purposes provided in  
17 subsection (1) of this section.

18 **SECTION 30.** If there are insufficient funds in the Energy Development Bond Sinking  
19 Fund to make the payments referred to in sub-section (1) of Section 29 of this Act, the  
20 Oregon Energy Development Commission or the State Treasurer may request the funds  
21 necessary for these payments from the Legislative Assembly or the Emergency Board.

22 **SECTION 31.** Emergency Clause. There being an emergency, this Act is declared to be  
23 effective immediately upon passage.

24 **SECTION 32.** In the event any provisions of this Act are deemed to be unenforceable or  
25 unconstitutional, the remaining terms and provisions shall remain in full force and effect.  
26 In interpreting this Act, the provisions herein shall be liberally construed to effectuate the  
27 intent of the people of Oregon in approving the "**The Oregon Electric Power and Fuel  
Security, Renewable Energy Development Act of 2008.**"

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