

HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2021

By COMMITTEE ON REVENUE

May 27

- 1 On page 1 of the printed A-engrossed bill, line 2, after “469A.205,” insert “469A.210.”
- 2 On page 2, delete lines 21 through 25 and insert:
- 3 “(2) ‘Community-based renewable energy’ means one or more renewable energy systems that
- 4 interconnect to utility distribution or transmission assets and may be combined with microgrids,
- 5 storage systems or demand response measures, or energy-related infrastructure that promotes cli-
- 6 mate resiliency or other such measures, and that:”
- 7 In line 26, delete “(b)” and insert “(a)”.
- 8 In line 29, delete “(c)” and insert “(b)”.
- 9 On page 3, line 5, delete the period and insert a semicolon.
- 10 In line 10, delete “and” and begin a new paragraph and insert:
- 11 “(3) That, under existing federal and state law, the state engages in meaningful consultation
- 12 with federally recognized Indian tribes. This includes consultation on the siting, permitting and
- 13 construction of new energy facilities as defined in ORS 469.300, and new projects subject to the
- 14 policy specified in 18 C.F.R. 2.1c, prior to such actions that are likely to adversely impact designated
- 15 sites of archeological significance as defined in ORS 358.905, or properties of traditional, cultural
- 16 and religious importance under the National Historical Preservation Act and the 36 C.F.R. 800 im-
- 17 plementing regulation; and”.
- 18 In line 11, delete “(3)” and insert “(4)”.
- 19 In line 20, after “2040,” insert “and for every subsequent year,”.
- 20 In line 40, delete “short and long duration energy storage,”.
- 21 After line 41, insert:
- 22 “(c) Include a risk-based examination of resiliency opportunities that includes costs, conse-
- 23 quences, outcomes and benefits based on reasonable and prudent industry resiliency standards and
- 24 guidelines established by the Public Utility Commission;
- 25 “(d) Examine the costs and opportunities of offsetting energy generated from fossil fuels with
- 26 community-based renewable energy;”.
- 27 In line 42, delete “(c)” and insert “(e)”.
- 28 In line 45, delete “(d)” and insert “(f)”.
- 29 On page 4, line 4, delete “short and”.
- 30 In line 5, delete “long duration energy storage,”.
- 31 In line 7, delete “(4)(c)” and insert “(4)(e)”.
- 32 In line 18, delete “as a result” and insert “forecasted in”.
- 33 In line 19, delete the first “of”.
- 34 On page 5, line 5, delete the period and insert “; and”.
- 35 On page 6, line 17, delete “or resources”.

1 In line 21, delete “the development of”.

2 In line 27, after “transmission” insert “, constraints”.

3 In line 39, delete “, a community solar project as defined in ORS 757.386”.

4 In line 43, after “electricity” insert “, other than unspecified market power,”.

5 On page 8, line 9, delete the semicolon and insert a period.

6 In line 11, delete the semicolon and insert a period.

7 On page 11, delete line 3 and insert:

8 **“SECTION 17. Sections 1 to 15 of this 2021 Act do not apply to an electric company, as**

9 **defined in ORS 757.600, that serves electricity to 25,000 or fewer retail electricity consumers,**

10 **as defined in ORS 757.600, located in this state.”.**

11 In line 24, delete “and”.

12 After line 24, insert:

13 “(L) The Public Utility Commission;

14 “(M) The Public Purpose Fund Administrator described in ORS 470.555; and”.

15 In line 25, delete “(L)” and insert “(N)”.

16 After line 41, insert:

17 “(3) Members of the work group shall comply with requests from the State Department of En-

18 ergy for data related to the work group’s study and work under this section.”.

19 In line 42, delete “(3)” and insert “(4)”.

20 On page 13, line 21, delete “but not limited to,”.

21 On page 17, line 14, delete “section 20 of this 2021 Act” and insert “ORS 757.603 (5)”.

22 Delete pages 23 through 26.

23 On page 27, delete lines 1 through 28 and insert:

24 **“SECTION 29. Definitions. As used in sections 29 to 32 of this 2021 Act:**

25 **“(1) ‘Community renewable energy project’ means one or more renewable energy sys-**

26 **tems, storage systems, microgrids or energy-related infrastructures that promote energy**

27 **resilience, increase renewable energy generation or renewable energy storage capacity and**

28 **provide a direct benefit to a particular community in the form of increased community en-**

29 **ergy resilience, local jobs, economic development or direct energy costs savings to families**

30 **and small businesses.**

31 **“(2) ‘Community energy resilience’ means the ability of a specific community to maintain**

32 **the availability of energy needed to support the provision of energy-dependent critical public**

33 **services to the community following nonroutine disruptions of severe impact or duration to**

34 **the state’s broader energy systems.**

35 **“(3) ‘Community energy resilience project’ means a community renewable energy project**

36 **that includes utilizing one or more renewable energy systems to support the energy**

37 **resilience of structures or facilities that are essential to the public welfare.**

38 **“(4) ‘Consumer-owned utility’ means a municipal electricity utility, a people’s utility dis-**

39 **trict organized under ORS chapter 261 that sells electricity or an electric cooperative or-**

40 **ganized under ORS chapter 62.**

41 **“(5) ‘Energy resilience’ means the ability of energy systems, from production through**

42 **delivery to end-users, to withstand and restore energy delivery rapidly following nonroutine**

43 **disruptions of severe impact or duration.**

44 **“(6) ‘Planning costs’ means the costs related to planning paid by an applicant described**

45 **under section 30 of this 2021 Act.**

1 “(7) ‘Project cost’ means the actual cost of the acquisition, construction and installation
2 of a renewable energy system incurred by an applicant described under section 30 of this 2021
3 Act for the system, before considering utility incentives.

4 “(8) ‘Public body’ means a public body as defined in ORS 174.109.

5 “(9) ‘Qualifying community’ means a community that qualifies as an environmental jus-
6 tice community as defined in section 1 of this 2021 Act.

7 “(10) ‘Renewable energy system’ includes:

8 “(a) A system that uses biomass, solar, geothermal, hydroelectric, wind, landfill gas,
9 biogas or wave, tidal or ocean thermal energy technology to produce energy.

10 “(b) One or more energy storage systems paired with an existing or newly constructed
11 system described in paragraph (a) of this subsection.

12 “(c) One or more vehicle charging stations paired with an existing or newly constructed
13 system described in paragraph (a) of this subsection.

14 “(d) Microgrid enabling technologies, including microgrid controllers and any other re-
15 lated technologies needed to electrically isolate a community energy resilience project from
16 the electric grid so that the project is capable of operating independently from the electric
17 grid.

18 “SECTION 30. Grants for community renewable energy projects; application; standards;
19 rules. (1) The Community Renewable Investment Program is established for the purpose of:

20 “(a) Offsetting the cost of planning and developing community renewable energy projects;

21 “(b) Making community renewable energy projects economically feasible for qualifying
22 communities;

23 “(c) Promoting small-scale renewable energy projects; and

24 “(d) Providing direct benefits to communities across this state in the form of increased
25 community energy resilience, local jobs, economic development or direct energy cost savings
26 to families and small businesses.

27 “(2)(a) A federally recognized Oregon Indian tribe, public body or consumer-owned utility
28 may submit to the State Department of Energy an application for grant moneys from the
29 Community Renewable Investment Fund established under section 33 of this 2021 Act for the
30 purpose of planning or developing a community renewable energy project.

31 “(b) An applicant may partner with a federally recognized Oregon Indian tribe, public
32 body, nonprofit entity, private business with a business site in this state or owner of rental
33 property in this state, but a grant for an approved application will only be awarded and re-
34 leased to an applicant that is a federally recognized Oregon Indian tribe, public body or
35 consumer-owned utility. Any federally recognized Oregon Indian tribe, public body, nonprofit
36 entity, private business or owner of rental property that partners with the applicant must
37 be listed in the application.

38 “(c) An application must be drafted in consultation with electric utilities that have cus-
39 tomers in the communities covered by a community renewable energy project that is in the
40 application and regional stakeholders for the purpose of ensuring feasibility.

41 “(3) An application for a grant for planning a community renewable energy project must
42 demonstrate that the planning:

43 “(a) Is for a project located in this state but outside a city with a population of 500,000
44 or more;

45 “(b) Will be completed within six months of execution of the performance agreement or

1 a reasonable time frame if good cause to extend the deadline is demonstrated as determined
2 by rule;

3 “(c) Will result in a proposal for developing a community renewable energy project; and

4 “(d) Incorporates feedback from:

5 “(A) Members of qualifying communities served by the community renewable energy
6 project;

7 “(B) Businesses located in the communities served by the community renewable energy
8 project;

9 “(C) Electric utilities that have customers in the communities served by the community
10 renewable energy project; and

11 “(D) Other regional stakeholders.

12 “(4)(a) An application for a grant for developing a community renewable energy project
13 must be on a form prescribed by the department and contain:

14 “(A) A detailed description of the project’s systems and the systems’ operation;

15 “(B) Information showing that the project’s systems will operate as represented in the
16 application and, if the project is for producing electricity, remain in operation for at least
17 five years or for at least a period of time established by the Director of the State Department
18 of Energy by rule;

19 “(C) The anticipated total project cost;

20 “(D) Information on the number and types of jobs directly connected to the awarding of
21 the grant that will be:

22 “(i) Created by the project; and

23 “(ii) Sustained throughout construction, installation and operation of the project;

24 “(E) Information demonstrating that the project will comply with applicable state and
25 local laws and regulations and obtain required licenses and permits;

26 “(F) Information demonstrating that the project will be located in and benefit a commu-
27 nity in this state but outside a city with a population of 500,000 or more; and

28 “(G) Any other information the director considers necessary to determine whether the
29 project is in compliance with sections 29 to 32 of this 2021 Act and any applicable rules or
30 standards adopted thereunder.

31 “(b) An application for developing a community renewable energy project must demon-
32 strate that the project:

33 “(A) Is located in this state but outside a city with a population of 500,000 or more;

34 “(B) Will begin construction within 12 months of execution of the performance agree-
35 ment and be completed within 36 months of execution of the performance agreement or a
36 reasonable time frame if good cause to extend the deadline is demonstrated as determined
37 by rule;

38 “(C) Results in increased community energy resilience, local jobs, economic development
39 or direct energy cost savings to families and small businesses;

40 “(D) Complies with applicable state and local laws and regulations and has the required
41 licenses and permits;

42 “(E) Does not exceed 20 megawatts of nameplate capacity, if the project is for generating
43 renewable energy; and

44 “(F) Will operate for at least five years, if the project is for producing electricity, or for
45 at least a period of time established by the director by rule.

1 “(5) Upon receipt of an application submitted under this section, the department shall
2 review and determine whether the applicant is eligible to receive a grant from the Commu-
3 nity Renewable Investment Program established under this section. The department may
4 approve an application if the department finds that:

5 “(a) The planning or development proposal meets the requirements listed in subsection
6 (3) or (4) of this section;

7 “(b) The proposal meets the standards described in subsection (10) of this section;

8 “(c) The proposal meets any standards adopted by rule under subsection (11) of this sec-
9 tion;

10 “(d) The proposal is technically feasible; and

11 “(e) Any federally recognized Oregon Indian tribe, public body, private business or owner
12 of rental property partnered with the applicant is listed in the application.

13 “(6)(a) The department shall issue separate opportunity announcements for each calendar
14 interval that funding is available for the following categories:

15 “(A) Planning a community renewable energy project that qualifies as a community en-
16 ergy resilience project;

17 “(B) Developing a community renewable energy project that qualifies as a community
18 energy resilience project;

19 “(C) Planning a community renewable energy project that does not qualify as a commu-
20 nity energy resilience project; and

21 “(D) Developing a community renewable energy project that does not qualify as a com-
22 munity energy resilience project.

23 “(b) Upon receiving an application, the director shall determine whether the application
24 is for a community renewable energy project that qualifies as a community energy resilience
25 project based on the definition of ‘community energy resilience project’ in section 29 of this
26 2021 Act and any applicable rules adopted under this section.

27 “(7)(a) The department shall allocate, out of the initial moneys appropriated for the
28 Community Renewable Investment Program under section 34 of this 2021 Act:

29 “(A) 50 percent or more for grants to be awarded for planning or developing community
30 renewable energy projects that qualify as community energy resilience projects.

31 “(B) 50 percent or more for grants to be awarded for planning or developing community
32 renewable energy projects that primarily serve one or more qualifying communities.

33 “(b) The department shall allocate, out of any subsequent and additional moneys appro-
34 priated to the Community Renewable Investment Program, percentage amounts for grants
35 in a manner consistent with paragraph (a) of this subsection.

36 “(c) After two years of issuing announcements of available funding opportunities from
37 the initial moneys appropriated to the Community Renewable Investment Program and after
38 consultation with the Advisory Committee on Community Renewable Investment described
39 in section 32 of this 2021 Act, the department may, by rule, reallocate the percentage of
40 available funds across project categories.

41 “(8) The department shall review and competitively score applications separately for each
42 funding opportunity announcement.

43 “(9) If the department approves an application under this section, the department and
44 the applicant may enter into a performance agreement that meets the requirements set
45 forth in section 31 of this 2021 Act.

1 “(10) In approving applications and awarding grant moneys, the department shall prior-
2 itize planning and development proposals that:

3 “(a) Include community energy resilience projects.

4 “(b) Demonstrate significant prior investments in energy efficiency measures at the
5 project location or will result in aggregate improvements to demand response capabilities.

6 “(c) Are for projects located in qualifying communities across the state.

7 “(d) When applicable, are for projects constructed in part or in whole by disadvantaged
8 business enterprises, emerging small businesses or businesses that are owned by minorities,
9 women or disabled veterans.

10 “(e) Include inclusive hiring and promotion policies for workers working on the projects.

11 “(f) Incorporate equity metrics developed in coordination with the Environmental Justice
12 Task Force established by ORS 182.538 for evaluating the involvement of and leadership by
13 people of low income, Black, Indigenous or People of Color, members of tribal communities,
14 people with disabilities, youth, people from rural communities and people from otherwise
15 disadvantaged communities in the siting, planning, designing or evaluating of the proposed
16 community renewable energy projects.

17 “(g) Help the applicants achieve goals included in the applicants’ natural hazard miti-
18 gation plans as approved by the Federal Emergency Management Agency.

19 “(11) The department shall adopt rules, in consultation with Business Oregon, to carry
20 out sections 29 to 32 of this 2021 Act. The rules must:

21 “(a) Define the planning and project costs eligible to be covered by a grant provided under
22 section 31 (1) and (2) of this 2021 Act.

23 “(b) Adopt a methodology to identify qualifying communities and assess the geographic
24 diversity of the approved planning and development projects compared with the other plan-
25 ning and development project applications for which grants have been requested in each op-
26 portunity announcement.

27 “(c) Establish guidelines for significant, unforeseeable or uncontrollable delays that will
28 constitute good cause for extending the time lines agreed upon in performance agreements.

29 “(12) The department may adopt rules capping the amount of grant funds that may be
30 paid to individual consultants and contractors in each round of funding opportunity an-
31 nouncements if the department finds such limitations necessary to ensure broad distribution
32 of funds and opportunity for emerging small businesses as defined in ORS 200.005.

33 “SECTION 31. Performance agreements; requirements. (1)(a) A performance agreement
34 for planning a community renewable energy project entered into between the State Depart-
35 ment of Energy and an applicant under section 30 (9) of this 2021 Act must provide, at a
36 minimum:

37 “(A) A grant in an amount described in paragraph (b) of this subsection that covers up
38 to 100 percent of the reasonable planning costs including, but not limited to, costs associated
39 with:

40 “(i) Consulting fees.

41 “(ii) Load analysis.

42 “(iii) Siting, excluding property acquisition.

43 “(iv) Ensuring code compliance.

44 “(v) Interconnection studies.

45 “(vi) Transmission studies.

1 “(vii) Other reasonable expenditures made in the community renewable energy project
2 planning process as determined by the department by rule.

3 “(B) A grant may not be used to cover any fixed costs the applicant would incur in the
4 applicant’s normal course of business such as existing staff salaries or overhead costs.

5 “(C) The department may recover grant moneys if a project fails to abide by the per-
6 formance agreement or if planning is not completed within six months of execution of the
7 performance agreement or a reasonable time frame if good cause to extend the deadline is
8 demonstrated as determined by rule.

9 “(b) The department may establish differing limits on the maximum amount of grants for
10 planning community renewable energy projects based on the scope and attributes of the
11 planning applications not to exceed an amount of \$100,000 per grant.

12 “(c) Notwithstanding paragraph (a) of this subsection, the department may provide a
13 grant that covers up to 100 percent of the reasonable planning costs only if the application
14 demonstrates the planning proposal is for a community renewable energy project that:

15 “(A) If for producing energy:

16 “(i) Will make use of an adequately available renewable energy resource to produce the
17 energy;

18 “(ii) Has a specific market for the energy; and

19 “(iii) Will reasonably and efficiently connect or transmit the energy to the specific com-
20 munity identified in the application under section 30 (3) of this 2021 Act; or

21 “(B) If for increasing energy resilience:

22 “(i) Will increase the energy resilience of a specific structure or facility or collection of
23 structures or facilities essential to the public welfare; and

24 “(ii) Will provide energy resilience benefits to the specific structure or facility or to the
25 collection of structures or facilities.

26 “(2) A performance agreement for developing a community renewable energy project en-
27 tered into between the State Department of Energy and an applicant under section 30 (9) of
28 this 2021 Act must provide, at a minimum:

29 “(a) For a community renewable energy project that qualifies as a community energy
30 resilience project, a grant that covers up to 100 percent of the project cost not to exceed \$1
31 million. The department shall reduce the grant amount, if the grant combined with other
32 incentives and grants received by the applicant exceeds 100 percent of the total costs asso-
33 ciated with the project.

34 “(b) For a community renewable energy project that does not qualify as a community
35 energy resilience project, a grant that covers up to 50 percent of the project cost not to ex-
36 ceed \$1 million. The department shall reduce the grant amount, if the grant combined with
37 other incentives and grants received by the applicant exceeds 100 percent of the total costs
38 associated with the project.

39 “(c) The department may release up to 30 percent of the grant moneys provided for in a
40 performance agreement, not to exceed 30 percent of project cost, upon entering into a per-
41 formance agreement with an applicant for developing a community renewable energy project,
42 with the remaining grant moneys to be released upon project completion under the terms
43 of the performance agreement, if upon entering the performance agreement the applicant
44 demonstrates having:

45 “(A) Taken meaningful steps to seek site control, including but not limited to an option

1 to lease or purchase the site or an executed letter of intent or exclusivity agreement to ne-
2 gotiate an option to lease or purchase the site;

3 “(B) Filed a request for interconnection with a host utility or appropriate transmission
4 provider; and

5 “(C) Met any other requirements provided by the department by rule, such as filing a
6 request for a power purchase or net metering agreement.

7 “(d) The department may recover grant moneys if:

8 “(A) The project fails to abide by the performance agreement;

9 “(B) The project fails to begin construction within 12 months of execution of the per-
10 formance agreement or a reasonable time frame if good cause to extend the deadline is
11 demonstrated as determined by rule; or

12 “(C) The project is not completed within 36 months of execution of the performance
13 agreement or a reasonable time frame if good cause to extend the deadline is demonstrated
14 as determined by rule.

15 “(3) The department shall gather information from grantees necessary to evaluate indi-
16 cators of success as determined by rule.

17 “SECTION 32. Advisory committee. The Director of the State Department of Energy may
18 appoint an Advisory Committee on Community Renewable Investment to provide consulta-
19 tion on the implementation of sections 29 to 32 of this 2021 Act. A committee appointed un-
20 der this section shall consist of:

21 “(1) A member of the Environmental Justice Task Force;

22 “(2) A representative of Business Oregon;

23 “(3) A representative of electric companies;

24 “(4) A representative of consumer-owned utilities;

25 “(5) A representative from an organization that represents community renewable energy
26 development;

27 “(6) A representative from a federally recognized Oregon Indian tribe;

28 “(7) Three representatives of local government to represent the interests of counties,
29 cities and special districts;

30 “(8) Representatives from nongovernmental organizations that represent communities
31 of low income or disadvantaged households; and

32 “(9) Representatives from relevant state and federal emergency management or response
33 agencies.

34 “SECTION 33. Community Renewable Investment Fund; uses. (1) The Community
35 Renewable Investment Fund is established in the State Treasury, separate and distinct from
36 the General Fund. Interest earned by the Community Renewable Investment Fund shall be
37 credited to the fund. The fund consists of:

38 “(a) Moneys appropriated or otherwise transferred to the fund by the Legislative As-
39 sembly;

40 “(b) Moneys received from federal, state or local sources;

41 “(c) Gifts, grants or other moneys contributed to the fund; and

42 “(d) Other amounts deposited in the fund from any source.

43 “(2) Moneys in the fund are continuously appropriated to the State Department of Energy
44 for the purpose of providing grants to applicants approved under section 30 of this 2021 Act.

45 “(3) The department may use reasonable amounts from the fund necessary, but no more

1 than 10 percent of the fund, to administer the Community Renewable Investment Program
2 described in section 30 of this 2021 Act.

3 “(4) The Director of the State Department of Energy shall submit a biennial report to the
4 Legislative Assembly in the manner provided by ORS 293.640 regarding the expenditures of
5 moneys deposited in the Community Renewable Investment Fund and status of ongoing
6 projects funded by the moneys, including but not limited indicators of program success.

7 “(5) Upon the expenditure of all grant moneys in the Community Renewable Investment
8 Fund or four years from the effective date of this 2021 Act, whichever occurs earlier, the
9 director shall submit a report to the Legislative Assembly regarding the expenditures of
10 moneys deposited in the Community Renewable Investment Fund and status of ongoing
11 projects that have received moneys from the fund, including but not limited to indicators of
12 program success.

13 “**SECTION 34. Appropriations.** In addition to and not in lieu of any other appropriations,
14 there is appropriated to the State Department of Energy, for the biennium beginning July
15 1, 2021, out of the General Fund, the amount of \$50,000,000 for deposit into the Community
16 Renewable Investment Fund established in section 33 of this 2021 Act.”.

17 In line 32, delete “authority” and insert “department”.

18 In line 34, delete “authority” and insert “department”.

19 After line 34, insert:

20
21 **“SMALL-SCALE RENEWABLE ENERGY PROJECTS**

22
23 “**SECTION 36.** ORS 469A.210 is amended to read:

24 “469A.210. (1) The Legislative Assembly finds that community-based renewable energy projects,
25 including but not limited to marine renewable energy resources that are either developed in ac-
26 cordance with the Territorial Sea Plan adopted pursuant to ORS 196.471 or located on structures
27 adjacent to the coastal shorelands, are an essential element of this state’s energy future.

28 “(2) For purposes related to the findings in subsection (1) of this section, by the year [2025]
29 2030, at least [eight] 10 percent of the aggregate electrical capacity of all electric companies that
30 make sales of electricity to 25,000 or more retail electricity consumers in this state must be com-
31 posed of electricity generated by one or both of the following sources:

32 “(a) Small-scale renewable energy projects with a generating capacity of 20 megawatts or less
33 that generate electricity utilizing a type of energy described in ORS 469A.025; or

34 “(b) Facilities that generate electricity using biomass that also generate thermal energy for a
35 secondary purpose.

36 “(3) Regardless of the facility’s nameplate capacity, any single facility described in subsection
37 (2)(b) of this section may be used to comply with the requirement specified in subsection (2) of this
38 section for up to 20 megawatts of capacity.”.

39 In line 38, delete “36” and insert “37”.

40 In line 41, delete “37” and insert “38”.