

**A-Engrossed**  
**House Bill 3221**

Ordered by the House April 9  
Including House Amendments dated April 9

Sponsored by Representatives HELM, OWENS, Senator HANSELL; Representatives BREESE-IVERSON, LEIF, WILLIAMS, Senators DEMBROW, FINDLEY

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Establishes Oregon Renewable Options Program.] Grants Public Utility Commission authority to authorize Oregon Renewable Options Programs offered by qualified utilities.*

Becomes operative January 1, 2023.

Takes effect on 91st day following adjournment sine die.

**A BILL FOR AN ACT**

1  
2 Relating to renewable electricity; and prescribing an effective date.

3 Whereas Oregon's state, local and tribal governments, local service districts, residents and  
4 businesses want to achieve clean energy goals while keeping electricity rates affordable, creating  
5 and sustaining energy-related jobs, investing in equitable economic development, promoting commu-  
6 nity resilience and supporting a healthy environment; and

7 Whereas Oregon's state, local and tribal governments and local service districts want to main-  
8 tain and build upon their long-standing relationships with investor-owned electric utilities; and

9 Whereas expanding renewable energy production, including both small, meaning 20 megawatts  
10 or less, and large renewable energy projects, creates opportunities for economic growth and com-  
11 munity benefits in Oregon; and

12 Whereas Oregon's state, local and tribal governments and local service districts support oppor-  
13 tunities to generate and purchase affordable electricity from renewable energy projects; and

14 Whereas Oregon's state, local and tribal governments and local service districts desire access  
15 to a transparent and accountable program that enables participating entities, in partnership with  
16 their community stakeholders, to envision and solicit a locally appropriate, low-cost power mix that  
17 can include up to 100 percent renewable electricity from small renewable energy projects; and

18 Whereas small renewable energy projects can provide a unique variety of local economic, envi-  
19 ronmental and resiliency benefits; now, therefore,

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

21 **SECTION 1. Sections 2 to 6 of this 2021 Act are added to and made a part of ORS chapter**  
22 **757.**

23 **SECTION 2. As used in sections 2 to 6 of this 2021 Act:**

24 **(1) "Community energy resilience" means the ability of a community to continue to pro-**  
25 **vide electricity in order to power services from critical sectors both during and after a**  
26 **magnitude 9.0 Cascadia subduction zone seismic event or other extreme natural event such**

**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 as a wildfire, flood or heat wave.

2 (2) “Critical sectors” includes:

3 (a) Emergency operations centers, hospitals, police stations, fire stations and emergency  
4 shelters; and

5 (b) Buildings that are necessary for the provision of basic services to communities as  
6 they begin to restore functions and return to normal life after an extreme natural event,  
7 such as schools, housing, certain retail stores and banks.

8 (3) “Large renewable energy project” means a new or existing renewable energy project  
9 with a generating capacity of more than 20 megawatts.

10 (4) “Local government” has the meaning given that term in ORS 174.116.

11 (5) “Local service district” means an irrigation district organized under ORS chapter 545,  
12 a drainage district organized under ORS chapter 547, a water improvement district organized  
13 under ORS chapter 552 or a water control district organized under ORS chapter 553.

14 (6) “Oregon Renewable Options Program” means a program offered by a qualified utility  
15 as authorized under section 3 (1) of this 2021 Act.

16 (7) “ORO Community Program” means a program created under an Oregon Renewable  
17 Options Program pursuant to section 3 (2) of this 2021 Act and approved by the Public Utility  
18 Commission under section 3 (5) of this 2021 Act, under which renewable energy is supplied  
19 to participating communities through renewable energy projects or unbundled renewable  
20 energy certificates.

21 (8) “Participating community” means a local government, local service district or tribal  
22 government whose residents or businesses are served by a qualified utility.

23 (9) “Participating customer” means a person that:

24 (a) Is a retail electricity consumer of a qualified utility located within the boundary of a  
25 local government, local service district or tribal government in which an ORO Community  
26 Program has been approved by the commission; and

27 (b) Has not exercised the right to decline to participate in the ORO Community Program  
28 pursuant to section 4 of this 2021 Act.

29 (10) “Public Purpose Fund Administrator” has the meaning given that term in ORS  
30 470.050.

31 (11)(a) “Qualified utility” means an entity engaged in the business of distributing elec-  
32 tricity to retail electricity consumers in this state.

33 (b) “Qualified utility” does not mean:

34 (A) A consumer-owned utility as defined in ORS 757.600; or

35 (B) An electricity service supplier as defined in ORS 757.600.

36 (12) “Renewable energy” means:

37 (a) Electricity generated from resource types described in ORS 469A.025; or

38 (b) Electricity represented through unbundled renewable energy certificates.

39 (13) “Renewable energy project” means a small renewable energy project or a large  
40 renewable energy project.

41 (14) “Retail electricity consumer” has the meaning given that term in ORS 757.600.

42 (15) “Small renewable energy project” means a new or existing renewable energy project  
43 with a generating capacity of 20 megawatts or less.

44 (16) “Tribal government” means the governing body of a federally recognized Indian tribe  
45 in Oregon or the governing body of an Oregon Indian tribe as defined in ORS 294.805.

1 (17) “Unbundled renewable energy certificate” means:

2 (a) An unbundled renewable energy certificate as defined in ORS 469A.005; or

3 (b) A renewable energy certificate that is sold to a retail electricity consumer without  
4 selling to the retail electricity consumer, on a non-cost of service basis, the electricity as-  
5 sociated with the renewable energy certificate.

6 **SECTION 3.** (1) Notwithstanding ORS 757.601 (3), the Public Utility Commission may au-  
7 thorize a qualified utility to provide, through an Oregon Renewable Options Program, local  
8 governments, local service districts and tribal governments with opportunities to have a  
9 greater choice over the renewable energy that powers and increases the resilience of their  
10 communities.

11 (2) An Oregon Renewable Options Program authorized by the commission under this  
12 section must allow for:

13 (a) One or more participating communities to coordinate with one or more qualified  
14 utilities that provide electricity in the service territory within which a participating com-  
15 munity is located to create and submit to the commission a proposal for an ORO Community  
16 Program under which renewable energy will be supplied to the participating communities  
17 through renewable energy projects or unbundled renewable energy certificates;

18 (b) The Public Purpose Fund Administrator at the request of the participating commu-  
19 nities and on a fee-for-service or other basis, to recover costs as directed by the commission  
20 and provide facilitation services, resilience planning or other technical assistance in the de-  
21 velopment of a proposal;

22 (c) All retail electricity consumers served within the boundary of a participating com-  
23 munity with an electricity demand at any point of delivery that is less than 30 kilowatts to,  
24 upon commission approval, be automatically placed on the rate schedule for the ORO Com-  
25 munity Program by the qualified utility but to have an opportunity to decline to be served  
26 by the ORO Community Program; and

27 (d) Any retail electricity consumer served within the boundary of a participating com-  
28 munity with an electricity demand at any point of delivery that is 30 kilowatts or more to  
29 opt in to participate in the ORO Community Program, if the participating community pe-  
30 titions the commission and the commission has approved participation by the retail elec-  
31 tricity consumer in the program.

32 (3)(a) In developing a proposal to be submitted to the commission under subsection (2)  
33 of this section, each participating community engaged in the development must utilize a  
34 public engagement process that includes explicit solicitation of feedback from, and that ad-  
35 dresses the needs of, participating customers, especially participating customers that are  
36 disadvantaged, climate vulnerable or energy burdened.

37 (b) A proposal must:

38 (A) Subject to subsection (4) of this section, specify the generating capacity or electricity  
39 generation requested to be supplied under the proposal by small renewable energy projects,  
40 large renewable energy projects or unbundled renewable energy certificates;

41 (B) Specify the date by which the renewable energy must first begin to be supplied;

42 (C) Subject to subsection (4) of this section, specify the combination of small renewable  
43 energy projects, large renewable energy projects or unbundled renewable energy certificates  
44 desired for the ORO Community Program;

45 (D) Include a report on how each participating community incorporated the feedback

1 solicited under paragraph (a) of this subsection in the proposal; and

2 (E) Include a record of the final vote of the governing body of each participating com-  
3 munity on the decision to submit the proposal.

4 (4)(a) Small renewable energy projects included in a proposal developed under subsection  
5 (3) of this section must demonstrate current or future potential to provide community en-  
6 ergy resilience.

7 (b) Except as provided in paragraph (d) of this subsection:

8 (A) Small renewable energy projects included in a proposal developed under subsection  
9 (3) of this section must cumulatively account for:

10 (i) At least five megawatts of generating capacity; or

11 (ii) Five percent of the generating capacity or electricity generation specified under sub-  
12 section (3)(b)(A) of this section; and

13 (B) The generating capacity or electricity generation of all large renewable energy  
14 projects or unbundled renewable energy certificates included in a proposal developed under  
15 subsection (3) of this section may not cumulatively account for more than 95 percent of the  
16 generating capacity or electricity generation specified under subsection (3)(b)(A) of this sec-  
17 tion.

18 (c) The commission, at the request of a participating community, may waive the re-  
19 quirements of paragraph (b) of this subsection.

20 (d) If a qualified utility participating in a proposal developed under subsection (3) of this  
21 section is an electric company as defined in ORS 757.600 providing electricity services to  
22 fewer than 25,000 consumers in this state, the maximum cumulative generating capacity of  
23 all renewable energy projects included in the proposal may not exceed five megawatts unless  
24 the commission, at the request of the qualified utility, approves a greater amount.

25 (5) Proposals for ORO Community Programs submitted to the commission under sub-  
26 section (2) of this section must be reviewed for approval by the commission. In reviewing and  
27 approving a proposal, the commission shall consider the requirements of subsections (3) and  
28 (4) of this section. Tariff schedules and rates allowed pursuant to this subsection must allow  
29 a return of and a return on an investment made by a qualified utility and shall be recovered  
30 in a manner specified by the commission.

31 **SECTION 4.** (1) A qualified utility implementing an ORO Community Program shall:

32 (a) Include in the billing statements provided to participating customers information on  
33 the costs of participation in the ORO Community Program; and

34 (b) Provide written notice to participating customers of any change in rate for partic-  
35 ipation in the ORO Community Program.

36 (2)(a) Subject to the terms of the applicable Oregon Renewable Options Program, a  
37 qualified utility may automatically enroll in an ORO Community Program all retail electricity  
38 consumers served within the boundary of a participating community that:

39 (A) Have an electricity demand at any point of delivery that is less than 30 kilowatts; or

40 (B) Have an electricity demand at any point of delivery that is 30 kilowatts or more and  
41 that have opted to participate in the ORO Community Program.

42 (b) The qualified utility shall provide retail electricity consumers that did not opt in to  
43 the ORO Community Program an opportunity to decline being enrolled as a participating  
44 customer. In the case of automatic enrollment of all retail electricity consumers described  
45 in paragraph (a)(A) of this subsection, the qualified utility may not assess a fee or penalty

1 against a retail electricity consumer that declines to participate in the program within an  
2 initial opt-out period as determined by the Public Utility Commission.

3 (3) A retail electricity consumer that previously declined to participate in the ORO  
4 Community Program under subsection (2) of this section may become a participating cus-  
5 tomer as allowed by the commission by rule and by giving notice to the qualified utility in  
6 the manner required by the commission.

7 (4) A person shall be provided notice and an opportunity to decline participation in the  
8 ORO Community Program if:

9 (a) The person first begins receiving electricity service from the qualified utility within  
10 the participating community served by an ORO Community Program after the date of im-  
11 plementation of the program; or

12 (b) The area in which the person is located was outside the participating community on  
13 the date of implementation of the ORO Community Program, but after the implementation  
14 date the area becomes annexed into the boundaries of the participating community.

15 **SECTION 5.** (1)(a) Upon its own motion or at the request of a qualified utility, the Public  
16 Utility Commission may open an investigation to determine whether a qualified utility's  
17 compliance with one or more of the requirements of an ORO Community Program is likely  
18 to result in:

19 (A) Conflicts with or compromises to the qualified utility's obligation to comply with the  
20 mandatory and enforceable reliability standards of the North American Electric Reliability  
21 Corporation; or

22 (B) Compromises to the integrity of the qualified utility's electrical system.

23 (b) A qualified utility making a request under this subsection must submit an application  
24 to the commission that includes:

25 (A) An explanation of the reliability or integrity issue and how a temporary exemption  
26 from complying with one or more of the requirements of the ORO Community Program will  
27 avoid the reliability or integrity issue; and

28 (B) A plan to achieve full compliance with the requirements of the ORO Community  
29 Program.

30 (2) In applying for a temporary exemption under this section, a qualified utility has the  
31 burden of demonstrating that compliance with one or more of the requirements of the ORO  
32 Community Program is likely to result in:

33 (a) Conflicts with or compromises to the qualified utility's obligation to comply with the  
34 mandatory and enforceable reliability standards of the North American Electric Reliability  
35 Corporation; or

36 (b) Compromises to the integrity of the qualified utility's electrical system.

37 (3) If the commission determines under this section that compliance with one or more  
38 of the requirements of the ORO Community Program is likely to result in the conflicts or  
39 compromises described in subsection (2) of the section, the commission shall issue an order:

40 (a) Notwithstanding the terms of the ORO Community Program, temporarily exempting  
41 the qualified utility from one or more of the requirements of the program for an amount of  
42 time sufficient to allow the qualified utility to achieve full compliance with the requirements  
43 of the program;

44 (b) Directing the qualified utility to file a progress report on achieving full compliance  
45 with the requirements of the ORO Community Program within six months after issuing the

1 order, or within an amount of time determined to be reasonable by the commission; and

2 (c) Directing the qualified utility to take specific actions to achieve full compliance with  
3 the requirements of the ORO Community Program.

4 (4) A qualified utility may request an extension of a temporary exemption granted under  
5 this section.

6 (5) This section does not permanently relieve a qualified utility of its obligation to comply  
7 with the requirements of an ORO Community Program.

8 **SECTION 6.** (1) The Public Utility Commission shall adopt rules necessary to carry out  
9 the requirements of sections 2 to 6 of this 2021 Act.

10 (2) The commission may, by rule, adopt:

11 (a) Incentives to support successful coordination between participating communities and  
12 qualified utilities in the creation of an ORO Community Program proposal under an Oregon  
13 Renewable Options Program; or

14 (b) Provisions for requiring a qualified utility to coordinate with a participating commu-  
15 nity in the creation of an ORO Community Program proposal under an Oregon Renewable  
16 Options Program.

17 (3) Rulemaking by the commission under this section shall be conducted pursuant to an  
18 open public process that ensures meaningful participation by local governments, local service  
19 districts and tribal governments.

20 **SECTION 7.** (1) Sections 2 to 6 of this 2021 Act become operative on January 1, 2023.

21 (2) The Public Utility Commission may adopt rules, issue orders or take any actions be-  
22 fore the operative date specified in subsection (1) of this section that are necessary to enable  
23 the commission, on and after the operative date specified in subsection (1) of this section,  
24 to carry out the provisions of sections 2 to 6 of this 2021 Act.

25 **SECTION 8.** This 2021 Act takes effect on the 91st day after the date on which the 2021  
26 regular session of the Eighty-first Legislative Assembly adjourns sine die.

27