

# Senate Bill 995

Sponsored by Senators KRUSE, EDWARDS (Pre-session filed.)

## 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 **as introduced**.

Allows facilities that generate electricity by using biomass or combusting municipal solid waste to comply with renewable portfolio standard under certain conditions. Specifies conditions under which State Department of Energy may certify facilities as eligible for renewable energy certificates.

Authorizes full recovery of costs by public utilities in prudent energy investments related to planning, financing, construction and operation of hydrogen power stations.

## A BILL FOR AN ACT

1  
2 Relating to renewable portfolio standards; creating new provisions; and amending ORS 469A.020 and  
3 469A.025.

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

5 **SECTION 1.** ORS 469A.020 is amended to read:

6 469A.020. (1) Except as provided in this section, electricity may be used to comply with a  
7 renewable portfolio standard only if the electricity is generated by a facility that becomes opera-  
8 tional on or after January 1, 1995.

9 (2) Electricity from a generating facility, other than a hydroelectric facility, that became opera-  
10 tional before January 1, 1995, may be used to comply with a renewable portfolio standard if the  
11 electricity is attributable to capacity or efficiency upgrades made on or after January 1, 1995.

12 (3) Electricity from a hydroelectric facility that became operational before January 1, 1995, may  
13 be used to comply with a renewable portfolio standard if the electricity is attributable to efficiency  
14 upgrades made on or after January 1, 1995. If an efficiency upgrade is made to a Bonneville Power  
15 Administration facility, only that portion of the electricity generation attributable to Oregon's share  
16 of the electricity may be used to comply with a renewable portfolio standard.

17 (4) Subject to the limit imposed by ORS 469A.025 [(5)] **(6)**, electricity from a hydroelectric fa-  
18 cility that is owned by an electric utility and that became operational before January 1, 1995, may  
19 be used to comply with a renewable portfolio standard if the facility is certified as a low-impact  
20 hydroelectric facility on or after January 1, 1995, by a national certification organization recognized  
21 by the State Department of Energy by rule.

22 **(5)(a) Electricity from a generating facility that uses biomass and that became opera-**  
23 **tional before January 1, 1995, and is located in this state may be used to comply with a**  
24 **renewable portfolio standard if the facility meets the requirements to qualify under the**  
25 **Public Utility Regulatory Policies Act of 1978 (P.L. 95-617) on the effective date of this 2010**  
26 **Act whether currently acknowledged as qualified by the Public Utility Commission or not.**

27 **(b) The amount of generating capacity eligible to receive renewable energy certificates**  
28 **generated by all facilities qualified under paragraph (a) of this subsection may not exceed 100**  
29 **megawatts in any calendar year. If the total amount of generating capacity generated by all**  
30 **facilities qualified under paragraph (a) of this subsection is greater than 100 megawatts in a**

**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 calendar year, then each generator shall be eligible to receive certificates for the proportion  
2 of total generating capacity generated by the facility, multiplied by 100 megawatts.

3 (c) Renewable energy certificates derived from electricity generated by a facility qualify-  
4 ing under paragraph (a) of this subsection may not be used to comply with a renewable  
5 portfolio standard prior to January 1, 2015. However, renewable energy certificates issued  
6 prior to January 1, 2015, may be banked under ORS 469A.005 to 469A.210 for use on or after  
7 January 1, 2015.

8 (d) If the owner or operator of a generating facility qualifying under paragraph (a) of this  
9 subsection makes cumulative investments in the generating facility between January 1, 2007,  
10 and January 1, 2020, equal to at least 80 percent of the 2007 real market value of the gener-  
11 ating facility, then the generating facility shall be classified as having become operational  
12 on or after January 1, 1995, for the purposes of this section.

13 (e) After January 1, 2020, electricity from a generating facility that uses biomass and  
14 became operational before January 1, 1995, may not be used to comply with a renewable  
15 portfolio standard.

16 (6) A facility generating electricity from direct combustion of municipal solid waste that  
17 became operational prior to January 1, 1995, and is located in this state may be used to  
18 comply with a renewable portfolio standard for up to 11 average megawatts of electricity  
19 generated per year. Renewable energy certificates derived from electricity generated by a  
20 facility qualifying under this subsection may not be used to comply with a renewable portfolio  
21 standard prior to January 1, 2015. However, renewable energy certificates issued prior to  
22 January 1, 2015, may be banked under ORS 469A.005 to 469A.210 for use on or after January  
23 1, 2015.

24 **SECTION 2.** To facilitate the creation of hydrogen power stations using anhydrous am-  
25 monia as a fuel source to comply with the renewable portfolio standards under ORS 469A.005  
26 to 469A.210, the Public Utility Commission may allow full recovery of costs by public utilities  
27 in prudent energy investments related to the planning, financing, construction and operation  
28 of hydrogen power stations. These investments include, but are not limited to:

29 (1) Systems designed to synthesize anhydrous ammonia fuel using electricity generated  
30 from renewable energy sources listed in ORS 469A.025;

31 (2) Infrastructure designed to store anhydrous ammonia generated from renewable en-  
32 ergy sources as a nonpolluting fuel for electric power generation and for other purposes;

33 (3) Energy systems designed to use anhydrous ammonia generated from renewable en-  
34 ergy sources as a fuel to generate electric power; and

35 (4) Electronic control and management systems designed to effectively integrate hydro-  
36 gen power station processes into the electric power grid.

37 **SECTION 3.** ORS 469A.025 is amended to read:

38 469A.025. (1) Electricity generated utilizing the following types of energy may be used to comply  
39 with a renewable portfolio standard:

40 (a) Wind energy.

41 (b) Solar photovoltaic and solar thermal energy.

42 (c) Wave, tidal and ocean thermal energy.

43 (d) Geothermal energy.

44 (2) Except as provided in subsection (3) of this section, electricity generated from biomass and  
45 biomass by-products may be used to comply with a renewable portfolio standard, including but not

1 limited to electricity generated from:

2 (a) Organic human or animal waste;

3 (b) Spent pulping liquor;

4 (c) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest  
5 or rangeland ecological health and to reduce uncharacteristic stand replacing wildfire risk;

6 (d) Wood material from hardwood timber grown on land described in ORS 321.267 (3);

7 (e) Agricultural residues;

8 (f) Dedicated energy crops; and

9 (g) Landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters or  
10 municipal solid waste.

11 (3) Electricity generated from the direct combustion of biomass may not be used to comply with  
12 a renewable portfolio standard if any of the biomass combusted to generate the electricity  
13 includes[:]

14 [(a) *Municipal solid waste; or*]

15 [(b)] wood that has been treated with chemical preservatives such as creosote,  
16 pentachlorophenol or chromated copper arsenate.

17 (4) Electricity generated by a hydroelectric facility may be used to comply with a renewable  
18 portfolio standard only if:

19 (a) The facility is located outside any protected area designated by the Pacific Northwest Elec-  
20 tric Power and Conservation Planning Council as of July 23, 1999, or any area protected under the  
21 federal Wild and Scenic Rivers Act, Public Law 90-542, or the Oregon Scenic Waterways Act, ORS  
22 390.805 to 390.925; or

23 (b) The electricity is attributable to efficiency upgrades made to the facility on or after January  
24 1, 1995.

25 **(5) Direct combustion of municipal solid waste in a generating facility located in this**  
26 **state may be used to comply with a renewable portfolio standard. The qualification of a mu-**  
27 **nicipal solid waste facility for use in compliance with a renewable portfolio standard has no**  
28 **effect on the qualification of such a facility for a tax credit under ORS 469.185 to 469.225 as**  
29 **such qualification existed prior to the effective date of this 2010 Act.**

30 [(5)] (6) Up to 50 average megawatts of electricity per year generated by an electric utility from  
31 certified low-impact hydroelectric facilities described in ORS 469A.020 (4) may be used to comply  
32 with a renewable portfolio standard, without regard to the number of certified facilities operated  
33 by the electric utility or the generating capacity of those facilities. A hydroelectric facility described  
34 in this subsection is not subject to the requirements of subsection (4) of this section.

35 [(6)] (7) Electricity generated from hydrogen gas, **including electricity generated by hydrogen**  
36 **power stations using anhydrous ammonia as a fuel source**, [*derived from any source of energy*  
37 *described in subsections (1) to (5) of this section*] may be used to comply with a renewable portfolio  
38 standard if:

39 **(a) The energy is derived from:**

40 **(A) Any source of energy described in subsections (1) and (2) of this section; or**

41 **(B) A hydroelectric facility that complies with subsection (4) of this section and is from**  
42 **a certified low-impact hydroelectric facility described in ORS 469A.020 (4); and**

43 **(b) The output of the original source of energy is not also used to comply with the**  
44 **renewable portfolio standard.**

45 [(7)] (8) If electricity generation employs multiple energy sources, that portion of the electricity

1 generated that is attributable to energy sources described in subsections (1) to [(6)] (7) of this sec-  
2 tion may be used to comply with a renewable portfolio standard.

3 [(8)] (9) The State Department of Energy by rule may approve energy sources other than those  
4 described in this section that may be used to comply with a renewable portfolio standard. The de-  
5 partment may not approve petroleum, natural gas, coal or nuclear fission as an energy source that  
6 may be used to comply with a renewable portfolio standard.

7 **SECTION 4. The State Department of Energy may certify as eligible for renewable energy**  
8 **certificates a facility that becomes qualified under the amendments to ORS 469A.020 and**  
9 **469A.025 by sections 1 and 3 of this 2010 Act only for electricity generated on or after Janu-**  
10 **ary 1, 2012.**

11 **SECTION 5. (1) To be eligible for receipt of renewable energy certificates, the owner or**  
12 **operator of a generating facility eligible to receive renewable energy certificates under the**  
13 **amendments to ORS 469A.020 by section 1 of this 2010 Act must register the generating fa-**  
14 **cility with the Western Renewable Energy Generation Information System or other regional**  
15 **system or trading program designated by the State Department of Energy prior to April 1,**  
16 **2011.**

17 **(2) The department shall calculate each eligible generating facility's share of the capacity**  
18 **allowed under ORS 469A.020 as amended by section 1 of this 2010 Act based upon the gener-**  
19 **ating facility's generating capacity filed under subsection (1) of this section. For the purposes**  
20 **of certifying a facility output as eligible for a renewable portfolio standard, the department**  
21 **may also factor in the ratio of the total generation during the most recent year of operation**  
22 **of all facilities that have registered under subsection (1) of this section to a target of 100**  
23 **average megawatts of generated electricity per year.**

24 **SECTION 6. If this 2010 Act is declared unconstitutional, it is the intent of the Legisla-**  
25 **tive Assembly that all sections amended or repealed by this 2010 Act shall remain in effect**  
26 **the same as if this 2010 Act had not been enacted.**

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