

**Minority Report**  
**A-Engrossed**  
**Senate Bill 1572**

Ordered by the Senate February 12  
Including Senate Minority Report Amendments dated February 12

Sponsored by nonconcurring members of the Senate Committee on Business and Transportation: Senators GIROD, THOMSEN

**SUMMARY**

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Directs Public Utility Commission to establish program for procurement of electricity from community solar projects. Sets forth guidelines for program implementation and qualifications for community solar projects.

Directs commission, on or before January 1, 2019, to report on implementation of program to interim committees of Legislative Assembly related to business and energy.

**Removes restrictions on hydroelectricity, including restriction that hydroelectricity be generated by facility that became operational on or after January 1, 1995, for purpose of complying with renewable portfolio standard.**

**A BILL FOR AN ACT**

Relating to utility regulation; creating new provisions; and amending ORS 469A.020 and 469A.025.

Whereas renewable energy procurement programs should provide fair access to Oregon households and small businesses that do not have the ability to install solar photovoltaic energy systems on their property; and

Whereas renewable energy procurement programs should shift minimal costs onto Oregon ratepayers; and

Whereas renewable energy procurement programs should be designed for easy and efficient administration; and

Whereas renewable energy procurement programs should allow for adaptation as administering agencies and stakeholders gain experience; now, therefore,

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

**COMMUNITY SOLAR**

**SECTION 1. (1) For purposes of this section:**

**(a) "Community solar project" means one or more solar photovoltaic energy systems that provide owners and subscribers the opportunity to share the costs and benefits associated**

**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 with the generation of electricity by the solar photovoltaic energy systems.

2 (b) "Electric company" has the meaning given that term in ORS 757.600.

3 (c) "Owner" means a customer of an electric company or a project manager that has  
4 proportionate ownership of part of a community solar project, such as direct ownership of  
5 one or more solar panels or shared ownership of the infrastructure of the community solar  
6 project.

7 (d) "Project manager" means the entity identified as having responsibility for owning or  
8 for managing the operation of a community solar project and, if applicable, for maintaining  
9 contact with the electric company that procures electricity from the community solar  
10 project. A project manager may be:

11 (A) An electric company; or

12 (B) An independent third party.

13 (e) "Solar photovoltaic energy system" means equipment and devices that have the pri-  
14 mary purpose of collecting solar energy and generating electricity by photovoltaic effect.

15 (f) "Subscriber" means a customer of an electric company who proportionately leases or  
16 has an interest in part of a community solar project for a minimum term established by the  
17 Public Utility Commission by rule.

18 (g) "Unsubscribed electricity" means any electricity generated by a community solar  
19 project that is not allocated to a subscriber or an owner.

20 (2)(a) The commission shall establish by rule a program for the procurement of electric-  
21 ity from community solar projects. As part of the program, the commission shall:

22 (A) Adopt rules prescribing what qualifies a community solar project to participate in the  
23 program;

24 (B) Certify qualified community solar projects for participation in the program;

25 (C) Prescribe the form and manner by which project managers may apply for certification  
26 under the program; and

27 (D) Require, by rule or order, electric companies to enter into a 20-year power purchase  
28 agreement with a certified community solar project.

29 (b) The commission shall adopt rules under paragraph (a)(A) of this subsection that, at  
30 a minimum:

31 (A) Incentivize consumers of electricity to be owners or subscribers;

32 (B) Minimize the shifting of costs from the program to ratepayers who do not own or  
33 subscribe to a community solar project;

34 (C) Where an electric company is the project manager, protect owners and subscribers  
35 from undue financial hardship; and

36 (D) Protect the public interest.

37 (3) A community solar project:

38 (a) Must have at least one solar photovoltaic energy system with a minimum generating  
39 capacity of 25 kilowatts;

40 (b) Must be located in this state; and

41 (c) May be located anywhere in this state.

42 (4) A project manager may offer ownership in or subscriptions to a community solar  
43 project only to consumers of electricity that are located:

44 (a) In this state; and

45 (b) In the service territory of an electric company.

1 (5)(a) A project manager may offer proportional ownership in or proportional sub-  
2 scriptions to a community solar project in any amount that does not exceed a potential  
3 owner's or potential subscriber's average annual consumption of electricity.

4 (b) Any value associated with the generation of electricity in excess of an offer to own  
5 or subscribe to a community solar project as limited by paragraph (a) of this subsection must  
6 be used by the electric company procuring electricity from the community solar project in  
7 support of low-income residential customers of the electric company.

8 (c) A project manager must be compensated by the electric company with whom the  
9 manager has entered into a power purchase agreement pursuant to subsection (2)(a)(D) of  
10 this section for any unsubscribed electricity at a rate established by the commission.

11 (6)(a) Except as provided in paragraph (b) of this subsection, an electric company shall  
12 credit an owner's or subscriber's electric bill for the amount of electricity generated by a  
13 community solar project for the owner or subscriber in a manner that reflects the resource  
14 value of solar energy. For purposes of this paragraph, the commission shall determine the  
15 resource value of solar energy.

16 (b) The commission may adopt a rate for an electric company to use in crediting a  
17 subscriber's electric bill other than the rate described in paragraph (a) of this subsection if  
18 the commission has good cause to adopt the different rate.

19 (7)(a) Except as otherwise provided for in this section, owners and subscribers shall bear  
20 the costs and benefits of constructing and operating a community solar project.

21 (b) Costs incurred by an electric company under the terms of a power purchase agree-  
22 ment entered into pursuant to subsection (2)(a)(D) of this section are recoverable in the  
23 rates of the electric company. Moneys collected pursuant to imposing those rates, under the  
24 terms of a power purchase agreement entered into pursuant to subsection (2)(a)(D) of this  
25 section, may be transferred to a project manager for the purpose of operating a community  
26 solar project.

27 (c) All start-up costs prudently incurred during the development or modification of the  
28 program established under this section are recoverable in the rates of an electric company.

29 (d) Owners and subscribers shall bear all ongoing costs incurred by a project manager  
30 during the continued administration of the program established under this section.

31 (8) Owners and subscribers own all renewable energy certificates established under ORS  
32 469A.130 that are associated with the generation of electricity by a community solar project,  
33 in proportion to the owner's proportional ownership in or the subscriber's proportional sub-  
34 scription to the community solar project.

35 (9) All electricity procured by an electric company pursuant to a power purchase agree-  
36 ment entered into pursuant to subsection (2)(a)(D) of this section may be used to comply  
37 with the renewable portfolio standard described in ORS 469A.052.

38 **SECTION 2.** On or before January 1, 2019, the Public Utility Commission shall report on  
39 the implementation of section 1 of this 2016 Act to the interim committees of the Legislative  
40 Assembly related to business and energy. As part of the report, the commission may make  
41 recommendations for legislation. The commission shall submit the report in the manner re-  
42 quired by ORS 192.245.

43  
44 **RENEWABLE PORTFOLIO STANDARD**  
45

1        **SECTION 3.** ORS 469A.020 is amended to read:

2        469A.020. (1) Except as provided in this section, electricity may be used to comply with a  
3 renewable portfolio standard only if the electricity is generated by:

4        (a) A facility that becomes operational on or after January 1, 1995[.]; **or**

5        **(b) A hydroelectric facility or any other equipment that generates electricity through the**  
6 **use of hydroelectric energy.**

7        (2) Electricity from a generating facility, other than a [*hydroelectric*] facility **described in sub-**  
8 **section (3) or (4) of this section**, that became operational before January 1, 1995, may be used to  
9 comply with a renewable portfolio standard if the electricity is attributable to capacity or efficiency  
10 upgrades made on or after January 1, 1995.

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

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

21        [(a) *Owned by an electric utility; or*]

22        [(b) *Not owned by an electric utility and located in Oregon and licensed by the Federal Energy*  
23 *Regulatory Commission under the Federal Power Act, 16 U.S.C. 791a et seq., or exempt from such li-*  
24 *cence.*]

25        [(5)(a)] **(3)(a)** Electricity from a generating facility located in this state that uses biomass and  
26 that became operational before January 1, 1995, may be used to comply with a renewable portfolio  
27 standard if the facility meets the requirements of the federal Public Utility Regulatory Policies Act  
28 of 1978 (P.L. 95-617) on March 4, 2010, regardless of whether the facility qualifies under the re-  
29 quirements of the Public Utility Commission.

30        (b) Renewable energy certificates derived from electricity generated by a facility that qualifies  
31 under paragraph (a) of this subsection may not be used to comply with a renewable portfolio  
32 standard before January 1, 2026. However, renewable energy certificates issued before January 1,  
33 2026, may be banked pursuant to ORS 469A.005 to 469A.210 for use on or after January 1, 2026.

34        [(6)] **(4)(a)** A facility located in this state that generates electricity from direct combustion of  
35 municipal solid waste and that became operational before January 1, 1995, may be used to comply  
36 with a renewable portfolio standard for up to 11 average megawatts of electricity generated per  
37 calendar year.

38        (b) Renewable energy certificates derived from electricity generated by a facility described in  
39 this subsection may not be used to comply with a renewable portfolio standard before January 1,  
40 2026. However, renewable energy certificates issued before January 1, 2026, may be banked pursuant  
41 to ORS 469A.005 to 469A.210 for use on or after January 1, 2026.

42        **SECTION 4.** ORS 469A.025 is amended to read:

43        469A.025. (1) Electricity generated utilizing the following types of energy may be used to comply  
44 with a renewable portfolio standard:

45        (a) Wind energy.

1 (b) Solar photovoltaic and solar thermal energy.

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

3 (d) Geothermal energy.

4 (e) **Hydroelectric energy.**

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

8 (a) Organic human or animal waste;

9 (b) Spent pulping liquor;

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

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

13 (e) Agricultural residues;

14 (f) Dedicated energy crops; and

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

17 (3) Electricity generated from the direct combustion of biomass may not be used to comply with  
18 a renewable portfolio standard if any of the biomass combusted to generate the electricity includes  
19 wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or  
20 chromated copper arsenate.

21 *[(4) Electricity generated by a hydroelectric facility may be used to comply with a renewable port-*  
22 *folio standard only if:]*

23 *[(a) The facility is located outside any protected area designated by the Pacific Northwest Electric*  
24 *Power and Conservation Planning Council as of July 23, 1999, or any area protected under the federal*  
25 *Wild and Scenic Rivers Act, P.L. 90-542, or the Oregon Scenic Waterways Act, ORS 390.805 to*  
26 *390.925; or]*

27 *[(b) The electricity is attributable to efficiency upgrades made to the facility on or after January*  
28 *1, 1995.]*

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

34 *[(b) Up to 40 average megawatts of electricity per year generated by certified low-impact hydro-*  
35 *electric facilities described in ORS 469A.020 (4)(b) may be used to comply with a renewable portfolio*  
36 *standard, without regard to the number of certified facilities or the generating capacity of those facili-*  
37 *ties. A hydroelectric facility described in this paragraph is not subject to the requirements of subsection*  
38 *(4) of this section.]*

39 [(6)(a)] **(4)(a)** Direct combustion of municipal solid waste in a generating facility located in this  
40 state may be used to comply with a renewable portfolio standard. The qualification of a municipal  
41 solid waste facility for use in compliance with a renewable portfolio standard has no effect on the  
42 qualification of the facility for a tax credit under ORS 469B.130 to 469B.169.

43 (b) The total amount of electricity generated in this state by direct combustion of municipal  
44 solid waste by generating facilities that became operational in this state on or after January 1, 1995,  
45 may not exceed nine average megawatts per year for the purpose of complying with a renewable

1 portfolio standard.

2 [(7)] (5) Electricity generated from hydrogen gas, including electricity generated by hydrogen  
3 power stations using anhydrous ammonia as a fuel source, may be used to comply with a renewable  
4 portfolio standard if:

5 (a) The [*electricity*] **hydrogen** is derived from[:] **any source of energy described in subsection**  
6 **(1) or (2) of this section; and**

7 [(A) *Any source of energy described in subsection (1) or (2) of this section; or*]

8 [(B) *A hydroelectric facility that complies with subsection (4) of this section and that is certified*  
9 *as a low-impact hydroelectric facility as described in ORS 469A.020 (4); and*]

10 (b) The output of the original source of energy is not also used to comply with a renewable  
11 portfolio standard.

12 [(8)] (6) If electricity generation employs multiple energy sources, that portion of the electricity  
13 generated that is attributable to energy sources described in this section may be used to comply  
14 with a renewable portfolio standard.

15 [(9)] (7) The State Department of Energy by rule may approve energy sources other than those  
16 described in this section that may be used to comply with a renewable portfolio standard. The de-  
17 partment may not approve petroleum, natural gas, coal or nuclear fission as an energy source that  
18 may be used to comply with a renewable portfolio standard.

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#### UNIT CAPTIONS

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22 **SECTION 5. The unit captions used in this 2016 Act are provided only for the convenience**  
23 **of the reader and do not become part of the statutory law of this state or express any leg-**  
24 **islative intent in the enactment of this 2016 Act.**

25