House Bill 2995

Sponsored by Representatives POWER, MARSH

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.

Requires 100 percent of electricity sold in 2035 and each subsequent calendar year to retail electricity consumers to be clean electricity.

Accelerates deadline, to 2025, for electric companies to eliminate coal from electricity supply.

Extends, to 2035, ad valorem property tax exemption for alternative energy systems. Requires systems constructed on or after January 1, 2022, to be constructed pursuant to project labor agreement to qualify for exemption.

Removes electricity generated from direct combustion of municipal solid waste from qualifying electricity for purposes of renewable portfolio standards.

Modifies requirements for community-based renewable energy projects.

A BILL FOR AN ACT

Relating to clean energy; creating new provisions; and amending ORS 307.175, 469A.020, 469A.025, 469A.027, 469A.029, 469A.210 and 757.518 and section 4, chapter 656, Oregon Laws 2011.

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

100 PERCENT CLEAN ELECTRICITY

SECTION 1. As used in sections 1 to 9 of this 2021 Act:

(1) “Clean electricity” means electricity that is generated utilizing a qualifying nonemitting source.

(2) “Community-based renewable energy project” has the meaning given that term in ORS 469A.210.

(3) “Consumer-owned utility” has the meaning given that term in ORS 757.600.

(4) “Electric company” has the meaning given that term in ORS 757.600.

(5) “Electricity service supplier” has the meaning given that term in ORS 757.600.

(6) “Electric utility” has the meaning given that term in ORS 757.600.

(7) “Qualifying nonemitting source” means a source of energy that meets one or more standards adopted by rule by the Public Utility Commission under section 3 (2) of this 2021 Act.

(8) “Retail electricity consumer” means a retail electricity consumer, as defined in ORS 757.600, that is located in Oregon.

SECTION 2. It is the policy of the State of Oregon:

(1) That retail electricity consumers be supplied only with clean electricity;

(2) That to the maximum extent practicable, clean electricity be generated in a manner that provides additional direct benefits to communities in this state in the forms of creating and sustaining meaningful living wage jobs, promoting workforce equity and increasing energy security and resiliency; and
(3) That implementation of sections 1 to 9 of this 2021 Act be done in a manner that minimizes burdens for environmental justice communities.

SECTION 3. (1) In furtherance of the policy set forth in section 2 of this 2021 Act, 100 percent of the electricity sold by an electric utility or an electricity service supplier to retail electricity consumers in the calendar year 2035 and in each subsequent calendar year must be clean electricity.

(2)(a) The Public Utility Commission, in coordination with the State Department of Energy, shall adopt by rule standards for sources of electricity to be considered qualifying nonemitting sources.

(b) Standards adopted pursuant to this subsection may not allow for petroleum, natural gas or coal to be used as a source to comply with this section.

(c)(A) Standards adopted pursuant to this subsection shall support achieving compliance with subsection (1) of this section at the lowest reasonable cost and in a manner consistent with the policy set forth in section 2 of this 2021 Act.

(B) To the maximum extent authorized by law and consistent with subparagraph (A) of this paragraph, the standards shall:

(i) Prioritize the development of facilities that provide additional direct benefits to communities in the form of increased energy security and resiliency, including but not limited to energy storage facilities, paired energy systems and storage, microgrids, irrigation modernization projects, microhydropower systems and community-based renewable energy projects; and

(ii) Maximize the creation of family wage jobs in the acquisition of new facilities constructed after the effective date of this 2021 Act.

(3)(a) An electric utility or electricity service supplier is not required to comply with subsection (1) of this section during a compliance year to the extent that the incremental cost of compliance with subsection (1) of this section exceeds three percent of the three-year rolling average of the electric utility's annual revenue requirement.

(b) The Public Utility Commission shall establish by rule requirements and procedures for conducting the calculations necessary to determine compliance by an electric company with subsection (1) of this section, pursuant to paragraph (a) of this subsection. The governing body of a consumer-owned utility shall establish requirements and procedures for conducting the calculations necessary to determine compliance by a consumer-owned utility with subsection (1) of this section, pursuant to paragraph (a) of this subsection. The requirements and procedures established under this paragraph must be equivalent to the requirements and procedures set forth in ORS 469A.100 (2) to (5) for calculating the annual revenue requirement and the incremental cost of compliance for each public utility.

(c) The commission shall establish limits on the incremental cost of compliance with subsection (1) of this section for electricity service suppliers, equivalent to the limits established under ORS 469A.100 (6) on the incremental cost of compliance with the renewable portfolio standard for electricity service suppliers.

SECTION 4. (1) Unless otherwise prohibited by law, if a construction project valued at $50,000 or more is relied upon by an electric utility or an electricity service supplier to establish compliance with sections 1 to 9 of this 2021 Act, the primary contractor and the subcontractors in all tiers participating in the project shall:

(a) Pay the prevailing rate of wage for an hour's work in the same trade or occupation
in the locality where the labor is performed;

(b) Offer health care and retirement benefits to the employees performing the labor on
the project;

(c) Participate in an apprenticeship program registered with the State Apprenticeship
and Training Council;

(d) Demonstrate a history of compliance with federal and state laws, including but not
limited to wage and hour laws;

(e) Employ apprentices to perform 15 percent of the work hours that workers in
apprenticable occupations perform under the contract, in a manner consistent with the
apprentices' respective apprenticeship training programs; and

(f) Ensure that all workers performing work in an apprenticable occupation are either
journeyworkers or apprentices in an apprenticeable program approved by the Labor Com-
missioner.

(2) An electric utility or electricity service supplier subject to this section shall require
the primary contractor for a project described in subsection (1) of this section to provide
monthly reporting to the electric utility or electricity service supplier that demonstrates
compliance with subsection (1) of this section by the primary contractor and subcontractors
in all tiers participating in the project. An electric company or electricity service supplier
shall make available to the Public Utility Commission, upon request, any reporting received
pursuant to this subsection. A consumer-owned utility shall make reporting received pursu-
ant to this subsection available to the governing body of the consumer-owned utility.

(3) The Public Utility Commission, in coordination with the Bureau of Labor and Indus-
tries, shall:

(a) Adopt rules to administer and enforce the provisions of this section applicable to
electric companies and electricity service suppliers; and

(b) In consultation with labor unions and their representatives, workforce diversity ad-
vocates and other interested parties, develop guidance for the use of project labor agree-
ments by the primary contractor for projects valued at $200,000 or more that are relied upon
by an electric utility or electricity service supplier to establish compliance with sections 1
to 9 of this 2021 Act.

SECTION 5. (1) An electric company that is subject to sections 1 to 9 of this 2021 Act
shall develop an implementation plan for meeting the requirements of sections 1 to 9 of this
2021 Act and file the implementation plan with the Public Utility Commission. Implementa-
tion plans must be revised and updated at least once every two years.

(2) At a minimum, an implementation plan must contain:

(a) Annual targets for meeting the requirement set forth in section 3 (1) of this 2021 Act,
including but not limited to targets for greenhouse gas reductions, energy efficiency meas-
ures, acquisition and use of demand response resources, short and long term energy storage
and renewable energy resources, labor standards and integration of community-based
renewable energy projects;

(b) The estimated cost of meeting the annual targets described pursuant to paragraph (a)
of this subsection;

(c) Specific actions proposed to be taken by the electric company over the next five years
to demonstrate progress toward meeting the requirement set forth in section 3 (1) of this
2021 Act; and
(d) A description of how the electric company will ensure that all customers, including low income rate payers, are benefitting from the electric company’s compliance with sections 1 to 9 of this 2021 Act through:

(A) The equitable distribution of energy and nonenergy benefits and the reduction of burdens to environmental justice communities;
(B) Long and short term public health and environmental benefits and reduction of costs and risks;
(C) Increased energy security and resiliency; and
(D) Ensuring that no customer or class of customer is unreasonably harmed by any resulting energy burden increase as may be necessary to comply with sections 1 to 9 of this 2021 Act.

(3) The commission shall acknowledge an implementation plan no later than six months after the implementation plan is filed with the commission. The commission may acknowledge the implementation plan subject to conditions specified by the commission. The commission may require an electric company to adjust or expedite the targets proposed by the electric company under subsection (2) of this section if achieving the adjusted or expedited targets may be accomplished in a manner consistent with maintaining and protecting the safety, reliable operation and balancing of the electric system.

(4) The commission shall adopt rules:
(a) Establishing requirements for the content of implementation plans;
(b) Establishing the procedure for acknowledgment of implementation plans under this section, including provisions for public comment;
(c) Providing for the integration of an implementation plan with the integrated resource planning guidelines established by the commission for the purpose of planning for the least-cost, least-risk acquisition of resources; and
(d) Providing for the evaluation of competitive bidding processes that allow for diverse ownership of eligible nonemitting sources that generate clean electricity.

SECTION 6. (1) Each electric utility and electricity service supplier that is subject to sections 1 to 9 of this 2021 Act shall make an annual compliance report for the purpose of detailing compliance, or failure to comply, with sections 1 to 9 of this 2021 Act. An electric company or electricity service supplier shall make the report to the Public Utility Commission. A consumer-owned utility shall make the report to the members or customers of the utility.

(2) The commission shall review each compliance report filed under this section by an electric company or electricity service supplier for the purposes of determining whether the company or supplier has complied with sections 1 to 9 of this 2021 Act and the manner in which the company or supplier has complied. In reviewing the reports, the commission shall consider any factors deemed reasonable by the commission.

(3) The commission by rule may establish requirements for compliance reports submitted by an electric company or electricity service supplier.

SECTION 7. If an electric company or electricity service supplier that is subject to sections 1 to 9 of this 2021 Act fails to comply with sections 1 to 9 of this 2021 Act, the Public Utility Commission may impose a penalty against the company or supplier in an amount determined by the commission. Moneys paid for penalties under this section shall be transmitted by the commission to the nongovernmental entity receiving moneys under ORS
SECTION 8. The requirements of sections 1 to 9 of this 2021 Act do not replace or modify the requirements of ORS 469A.005 to 469A.210.

SECTION 9. The Public Utility Commission shall adopt rules as necessary to implement sections 1 to 9 of this 2021 Act.

SECTION 10. (1) The Public Utility Commission, in coordination with the Bureau of Labor and Industries, shall conduct a study on workforce equity in the energy sector in Oregon, with a particular emphasis on workforce equity in the labor market in this state for construction projects that may be relied upon by an electric utility or electricity service supplier to meet the requirements of sections 1 to 9 of this 2021 Act.

(2) The study shall include:
   (a) An examination of participation rates in the workforce described in subsection (1) of this section by:
      (A) Local residents where the work is being performed;
      (B) Women and nonbinary people; and
      (C) Black, Indigenous and other people of color;
   (b) An examination of any present effects of past discrimination within the workforce described in subsection (1) of this section;
   (c) Potential remedies, including race-neutral remedies, for any present effects of past discrimination identified under paragraph (b) of this subsection; and
   (d) Recommendations, including recommendations for legislation or rulemaking, for programs, policies or other actions that may be taken to address, as necessary and as authorized by law, any inequities identified by the study relevant to the workforce described in subsection (1) of this section.

(3) In carrying out the provisions of this section, the commission and the bureau shall:
   (a) Consult with:
      (A) Labor unions and their representatives;
      (B) Workforce advocates for women, nonbinary people and Black, Indigenous and other people of color; and
   (C) Any other relevant parties, including other relevant state agencies; and
   (b) Consider and incorporate, to the extent feasible, all available relevant existing research, statistics, data and information.

(4) The commission shall provide the results of the study in a report, in the manner provided under ORS 192.245, to the relevant interim committees of the Legislative Assembly no later than September 15, 2022.

SECTION 11. Section 10 of this 2021 Act is repealed on January 2, 2023.

COAL-FIRED RESOURCES; DEPRECIATION

SECTION 12. ORS 757.518 is amended to read:

757.518. (1) As used in this section:
   (a) “Allocation of electricity” means, for the purpose of setting electricity rates, the costs and benefits associated with the resources used to provide electricity to an electric company’s retail electricity consumers that are located in this state.
   (b)(A) “Coal-fired resource” means a facility that uses coal-fired generating units, or that uses
units fired in whole or in part by coal as feedstock, to generate electricity.

(B) “Coal-fired resource” does not include a facility generating electricity that is included as part of a limited duration wholesale power purchase made by an electric company for immediate delivery to retail electricity consumers that are located in this state for which the source of the power is not known.

(c) “Electric company” has the meaning given that term in ORS 757.600.

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

(2) On or before January 1, [2030] 2025, an electric company shall eliminate coal-fired resources from its allocation of electricity.

(3)(a) The Public Utility Commission shall adjust any schedule of depreciation approved by the commission for an electric company's coal-fired resource if:

(A) The electric company holds a minority ownership share in only one coal-fired resource, with no more than four generating units; and

(B) The electric company serves at least 800,000 retail electricity consumers and only retail electricity consumers that are located in this state.

(b) The adjusted depreciation schedule described in paragraph (a) of this subsection must require the coal-fired resource described in paragraph (a)(A) of this subsection to be fully depreciated on or before December 31, [2030] 2025.

(4) Notwithstanding subsections (2) and (3) of this section, for the number of years requested by the electric company, not to exceed five years after the coal-fired resource is fully depreciated, the commission shall authorize an electric company described in subsection (3) of this section to include in the company's allocation of electricity the costs and benefits associated with the coal-fired resource described in subsection (3)(a)(A) of this section if:

(a) The electric company requests the commission to authorize the allocation of electricity; or

(b) The owners of the coal-fired resource agree to close the coal-fired resource on or before the date that is five years after the date the coal-fired resource is fully depreciated.

(5) For purposes of evaluating the prudence of an investment decision regarding a coal-fired resource made after March 8, 2016, or an investment related to the continued operation of a coal-fired resource made after March 8, 2016, the useful life of the coal-fired resource may not be considered to be any later than January 1, [2030] 2025, unless the commission determines otherwise.

(6) Notwithstanding ORS 757.355, this section does not prevent the full recovery of prudently incurred costs related to the decommissioning or remediation of a coal-fired resource or the closure of a coal-fired resource, at the time those costs are incurred.

PROPERTY TAX EXEMPTION FOR ALTERNATIVE ENERGY SYSTEMS

SECTION 13. ORS 307.175 is amended to read:

307.175. (1) As used in this section, “alternative energy system” means property consisting of solar, geothermal, wind, water, fuel cell or methane gas energy systems for the purpose of heating, cooling or generating electricity.

(2)(a) Except as provided in paragraph (b) of this subsection, an alternative energy system is exempt from ad valorem property taxation if the system is:

[(a)(A) A net metering facility, as defined in ORS 757.300; or

[(b)] (B) Primarily designed to offset onsite electricity use.

(b)(A) An alternative energy system is not exempt from ad valorem property taxation
under this section if the alternative energy system is constructed on or after January 1, 2022, unless the labor supplied for construction of the alternative energy system is supplied pursuant to a project labor agreement.

(B) As used in this paragraph, “project labor agreement” means a collective bargaining agreement into which a contractor enters with workers the contractor employs for a specific project or projects, which establishes terms and conditions of employment for the construction project or projects before the contractor hires the workers.

(3) Notwithstanding ORS 307.110 and 308.505 to 308.674, any portion of the real property to which an alternative energy system is affixed is exempt under this section if:

(a) The real property is otherwise exempt from ad valorem property taxation; and

(b) The alternative energy system is exempt under this section.

(4) Property equipped with an alternative energy system is exempt from ad valorem property taxation in an amount that equals any positive amount obtained by subtracting the real market value of the property as if it were not equipped with an alternative energy system from the real market value of the property as equipped with the alternative energy system.

SECTION 14. Section 4, chapter 656, Oregon Laws 2011, as amended by section 28, chapter 193, Oregon Laws 2013, and section 1, chapter 542, Oregon Laws 2017, is amended to read:

Sec. 4. (1) The amendments to ORS 307.175 by section 3, chapter 656, Oregon Laws 2011, apply to tax years beginning on or after July 1, 2011.

(2) The amendments to ORS 307.175 by section 13 of this 2021 Act apply to tax years beginning on or after July 1, 2022.

(3) An exemption under ORS 307.175 may not be allowed for tax years beginning after July 1, 2023.

QUALIFYING ELECTRICITY FOR RENEWABLE PORTFOLIO STANDARDS

SECTION 15. ORS 469A.020 is amended to read:

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

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

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

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

(a) Owned by an electric utility; or

(b) Not owned by an electric utility and located in Oregon and licensed by the Federal Energy
Regulatory Commission under the Federal Power Act, 16 U.S.C. 791a et seq., or exempt from such license.

(5) Electricity from a generating facility located in this state that uses biomass and that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the facility meets the requirements of the federal Public Utility Regulatory Policies Act of 1978 (P.L. 95-617) on March 4, 2010.

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

SECTION 16. ORS 469A.025 is amended to read:

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

(a) Wind energy.
(b) Solar photovoltaic and solar thermal energy.
(c) Wave, tidal and ocean thermal energy.
(d) Geothermal energy.

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

(a) Organic human or animal waste;
(b) Spent pulping liquor;
(c) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce uncharacteristic stand replacing wildfire risk;
(d) Wood material from hardwood timber grown on land described in ORS 321.267 (3);
(e) Agricultural residues;
(f) Dedicated energy crops; and
(g) Landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters or municipal solid waste.

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

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

(a) The facility is located outside any protected area designated by the Pacific Northwest Electric Power and Conservation Planning Council as of July 23, 1999, or any area protected under the federal Wild and Scenic Rivers Act, P.L. 90-542, or the Oregon Scenic Waterways Act, ORS 390.805 to 390.925; or
(b) The electricity is attributable to efficiency upgrades made to the facility on or after January 1, 1995.

(5)(a) Up to 50 average megawatts of electricity per year generated by an electric utility from certified low-impact hydroelectric facilities described in ORS 469A.020 (4)(a) may be used to comply with a renewable portfolio standard, without regard to the number of certified facilities operated by the electric utility or the generating capacity of those facilities. A hydroelectric facility described
(b) Up to 40 average megawatts of electricity per year generated by certified low-impact hydroelectric facilities described in ORS 469A.020 (4)(b) may be used to comply with a renewable portfolio standard, without regard to the number of certified facilities or the generating capacity of those facilities. A hydroelectric facility described in this paragraph is not subject to the requirements of subsection (4) of this section.

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

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

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

(a) The electricity is derived from:

(A) Any source of energy described in subsection (1) or (2) of this section; or
(B) A hydroelectric facility that complies with subsection (4) of this section and that is certified as a low-impact hydroelectric facility as described in ORS 469A.020 (4); and

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

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

[(9) (8) The State Department of Energy by rule may approve energy sources other than those described in this section that may be used to comply with a renewable portfolio standard.

SECTION 17. ORS 469A.027 is amended to read:

469A.027. The State Department of Energy may certify as eligible for renewable energy certificates a facility that qualifies under ORS 469A.020 (5) [and (6)] and 469A.025 (6) [and (7)] only for electricity generated on or after January 1, 2011.

SECTION 18. ORS 469A.029 is amended to read:

469A.029. To be eligible for renewable energy certificates, the owner or operator of a generating facility that qualifies under ORS 469A.020 (5) [and (6)] and 469A.025 (6) [and (7)] must register the generating facility with the Western Renewable Energy Generation Information System or other regional system or trading program designated by the State Department of Energy before January 1, 2011.

COMMUNITY-BASED RENEWABLE ENERGY PROJECTS

SECTION 19. ORS 469A.210 is amended to read:

469A.210. (1) As used in this section, “community-based renewable energy project” means
one or more energy systems, storage systems or microgrids, or any combination thereof, that provides a direct benefit to a particular community through contributing to local jobs, providing for local project ownership or resulting in direct energy cost savings to local households or small businesses.

(2) The Legislative Assembly finds and declares:

(a) That community-based renewable energy projects, including but not limited to marine renewable energy resources that are either developed in accordance with the Territorial Sea Plan adopted pursuant to ORS 196.471 or located on structures adjacent to the coastal shorelands, are an essential element of this state's energy future; and

(b) That it is the goal of this state to facilitate the development of community-based renewable energy projects that particularly provide direct benefits to rural communities, coastal communities, communities with above-average concentrations of historically disadvantaged households or low-income households, communities with limited infrastructure and federally recognized Indian tribes.

(3) In furtherance of and consistent with the findings and goal set forth in subsection [(1)] (2) of this section, by the year 2025, at least eight percent of the aggregate electrical generation of all electric companies that make sales of electricity to 25,000 or more retail electricity consumers in this state must be composed of electricity generated by one or both of the following sources:

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

(b) Facilities that generate electricity using biomass that:

(A) Also generate thermal energy for a secondary purpose;

(B) Utilize as a feedstock refuse from timber or agriculture; and

(C) Provide direct benefits to small businesses or federally recognized Indian tribes.

(4) Regardless of the facility's nameplate capacity, any single facility described in subsection [(2)(b)] (3)(b) of this section may be used to comply with the requirement specified in subsection [(2)] (3) of this section for up to 20 megawatts of generation.