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
Relating to renewable electricity; and prescribing an effective date.

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

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

Whereas expanding renewable energy production, including both small, meaning 20 megawatts or less, and large renewable energy projects, creates opportunities for economic growth and community benefits in Oregon; and

Whereas Oregon's state, local and tribal governments and local service districts support opportunities to generate and purchase affordable electricity from renewable energy projects; and

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

Whereas small renewable energy projects can provide a unique variety of local economic, environmental and resiliency benefits; now, therefore,

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

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

SECTION 2. As used in sections 2 to 6 of this 2021 Act:
(1) “Community energy resilience” means the ability of a community to continue to provide electricity in order to power services from critical sectors both during and after a 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.

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as a wildfire, flood or heat wave.

(2) “Critical sectors” includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) “Qualified utility” does not mean:

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

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

(12) “Renewable energy” means:

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

(b) Electricity represented through unbundled renewable energy certificates.

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

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

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

(16) “Tribal government” means the governing body of a federally recognized Indian tribe in Oregon or the governing body of an Oregon Indian tribe as defined in ORS 294.805.
“Unbundled renewable energy certificate” means:
(a) An unbundled renewable energy certificate as defined in ORS 469A.005; or
(b) A renewable energy certificate that is sold to a retail electricity consumer without selling to the retail electricity consumer, on a non-cost of service basis, the electricity associated with the renewable energy certificate.

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

(2) An Oregon Renewable Options Program authorized by the commission under this section must allow for:
(a) One or more participating communities to coordinate with one or more qualified utilities that provide electricity in the service territory within which a participating community is located to create and submit to the commission a proposal for an ORO Community Program under which renewable energy will be supplied to the participating communities through renewable energy projects or unbundled renewable energy certificates;
(b) The Public Purpose Fund Administrator at the request of the participating communities and on a fee-for-service or other basis, to recover costs as directed by the commission and provide facilitation services, resilience planning or other technical assistance in the development of a proposal;
(c) All retail electricity consumers served within the boundary of a participating community with an electricity demand at any point of delivery that is less than 30 kilowatts to, upon commission approval, be automatically placed on the rate schedule for the ORO Community Program by the qualified utility but to have an opportunity to decline to be served by the ORO Community Program; and
(d) Any retail electricity consumer served within the boundary of a participating community with an electricity demand at any point of delivery that is 30 kilowatts or more to opt in to participate in the ORO Community Program, if the participating community petitions the commission and the commission has approved participation by the retail electricity consumer in the program.

(3)(a) In developing a proposal to be submitted to the commission under subsection (2) of this section, each participating community engaged in the development must utilize a public engagement process that includes explicit solicitation of feedback from, and that addresses the needs of, participating customers, especially participating customers that are disadvantaged, climate vulnerable or energy burdened.
(b) A proposal must:
(A) Subject to subsection (4) of this section, specify the generating capacity or electricity generation requested to be supplied under the proposal by small renewable energy projects, large renewable energy projects or unbundled renewable energy certificates;
(B) Specify the date by which the renewable energy must first begin to be supplied;
(C) Subject to subsection (4) of this section, specify the combination of small renewable energy projects, large renewable energy projects or unbundled renewable energy certificates desired for the ORO Community Program;
(D) Include a report on how each participating community incorporated the feedback
solicited under paragraph (a) of this subsection in the proposal; and

(E) Include a record of the final vote of the governing body of each participating community on the decision to submit the proposal.

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

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

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

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

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

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

(c) The commission, at the request of a participating community, may waive the requirements of paragraph (b) of this subsection.

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

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

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

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

(b) Provide written notice to participating customers of any change in rate for participation in the ORO Community Program.

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

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

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

(b) The qualified utility shall provide retail electricity consumers that did not opt in to the ORO Community Program an opportunity to decline being enrolled as a participating customer. In the case of automatic enrollment of all retail electricity consumers described in paragraph (a)(A) of this subsection, the qualified utility may not assess a fee or penalty
against a retail electricity consumer that declines to participate in the program within an
initial opt-out period as determined by the Public Utility Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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