House Bill 3221

Sponsored by Representatives HELM, OWENS, Senator HANSELL; Representative 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 as introduced.

Establishes Oregon Renewable Options Program.
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 as a wildfire, flood or heat wave.

(2) “Critical sectors” includes:

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

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.

LC 2251
(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) “Energy project scoring criteria” means the factors of importance that are determined by one or more participating communities to be the factors that must be used in prioritizing the scoping and sourcing of renewable energy projects under an ORO Community Program application.

(4) “Independent evaluator” means an independent, third-party organization identified and contracted with by the Public Utility Commission to conduct an independent evaluation of an ORO Community Program proposal based on the applicable energy project scoring criteria.

(5) “Large renewable energy project” means a renewable energy project with a generating capacity of more than 20 megawatts.

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

(7) “Local service district” has the meaning given that term in ORS 174.116.

(8) “Oregon Renewable Options Program” means the statewide voluntary renewable electricity program established under sections 2 to 6 of this 2021 Act.

(9) “ORO Community Program” means a program under the Oregon Renewable Options Program that is overseen by the commission as further described under section 3 of this 2021 Act.

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

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

(a) Is a customer 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.

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

(13) “Qualified utility” means an electric company as that term is defined in ORS 757.600.

(14) “Renewable energy” means electricity generated utilizing the types of energy described in ORS 469A.025.

(15) “Small renewable energy project” means a 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.

SECTION 3. (1) The Public Utility Commission shall implement an Oregon Renewable Options Program for providing local governments, local service districts and tribal governments with opportunities, through approved ORO Community Programs, to have a greater choice over the renewable energy that powers and increases the resilience of their communities.

(2) The Oregon Renewable Options Program shall set forth a process for the development, approval and implementation of an ORO Community Program. The Oregon Renewable Options Program shall allow for:
(a) One or more participating communities to submit, to the commission and the qualified utility that provides electricity in the service territory within which the participating community is located, an ORO Community Program application for renewable energy to be supplied to the participating community through renewable energy projects;

(b) Review of the application by the qualified utility and development, in coordination with the Public Purpose Fund Administrator and subject to review and comment by the participating community, of an ORO Community Program proposal that is responsive to an application; and

(c) Approval by the commission of the ORO Community Program proposal and oversight by the commission of implementation by the qualified utility of the ORO Community Program.

(3)(a) An ORO Community Program application must:

(A) Specify the cumulative generating capacity requested to be supplied by small renewable energy projects and large renewable energy projects through an ORO Community Program;

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

(C) Specify the energy project scoring criteria that must be used by the qualified utility and the Public Purpose Fund Administrator to select small renewable energy projects and large renewable energy projects to include in a proposal responsive to the application under subsection (2)(a) of this section, which may include but need not be limited to criteria related to:

(i) Electricity pricing;

(ii) Community energy resilience principles;

(iii) Individual renewable energy project size;

(iv) Job creation; or

(v) Environmental benefits;

(D) Include a report on how the participating communities incorporated the feedback solicited under paragraph (b) of this subsection in the application; and

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

(b) In developing an application, the participating communities engaged in the development must utilize a public engagement process, as further specified by the commission by rule, 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.

(c) The Public Purpose Fund Administrator shall provide facilitation services, resilience planning and other technical assistance as requested by participating communities in the development of applications for ORO Community Programs.

(4)(a) A qualified utility may propose to meet the requirements of an application through supplying electricity from any combination of one or more small renewable energy projects and one or more large renewable energy projects, subject to paragraph (b) of this subsection.

(b)(A) The cumulative generating capacity of all small renewable energy projects included in a proposal developed under this subsection must, at a minimum, be the lesser of:

(i) Five megawatts; or

(ii) Five percent of the cumulative generating capacity specified under subsection
(3)(a)(A) of this section.

(B) The cumulative generating capacity of all large renewable energy projects included in a proposal developed under this subsection may not exceed 95 percent of the cumulative generating capacity specified under subsection (3)(a)(A) of this section.

(c) In developing a proposal in response to an application for an ORO Community program, a qualified utility shall engage the Public Purpose Fund Administrator to be primarily responsible for soliciting small renewable energy projects on the qualified utility’s behalf for inclusion in the proposal. The qualified utility shall be primarily responsible for soliciting large renewable energy projects for inclusion in the proposal.

(5)(a) The commission shall contract with an independent evaluator to evaluate a proposal submitted by a qualified utility in response to an application for an ORO Community Program. The independent evaluator shall prepare a report that, at a minimum, details:

(A) Whether the proposal is responsive to, and meets, the requirements and energy project scoring criteria set forth in the application;

(B) The costs of and proposed rates for the renewable energy projects included in the proposal as compared to the costs of and rates for comparable recently purchased energy or energy and capacity by the qualified utility; and

(C) Any additional benefits to the community, including but not limited to resiliency benefits, that may be provided by the renewable energy projects included in the proposal.

(b) In authorizing an ORO Community Program as set forth in a proposal by a qualified utility, the commission shall consider information contained in the application submitted under subsection (2)(a) of this section and the report prepared under paragraph (a) of this subsection. Tariff schedules and rates allowed pursuant to this subsection may allow a return on 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) A qualified utility may automatically enroll all eligible customers within a participating community in an ORO Community Program. The qualified utility shall provide eligible customers an opportunity to decline being enrolled as a participating customer. The qualified utility may not assess a fee or penalty against an eligible customer that declines to participate in the program within an initial opt-out period as determined by the Public Utility Commission.

(b) The qualified utility shall provide notice of the automatic enrollment and the opportunity to opt out to eligible customers:

(A) No less than twice during the 60-day period prior to the date that eligible customers will be automatically enrolled as participating customers; and

(B) Separately from the customer’s monthly billing.

(c) Notice required under paragraph (b) of this subsection must:

(A) Inform the eligible customer that they are to be automatically enrolled in an ORO Community Program operated by the qualified utility and that the customer may decline enrollment;
(B) Inform the eligible customer of the projected rates and terms of participation in the ORO Community Program;

(C) Provide an estimated comparison between the rates described in subparagraph (B) of this paragraph and the current rates paid by the eligible customer;

(D) Provide a mechanism for the eligible customer to decline being enrolled as a participating customer within an initial opt-out period, as set forth by the commission by rule, which may take the form of a self-addressed return postcard or other simply and readily understood mechanism; and

(E) Include any other information required by the commission.

(3) An eligible customer that previously declined to participate in the ORO Community Program under subsection (2) of this section may become a participating customer 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 in a manner determined by the commission and consistent with subsection (2) of this section if the person:

(a) First begins receiving electricity service from the qualified utility within the participating community served by an ORO Community Program after the date of implementation 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 implementation date the area becomes annexed into the boundaries of the participating community.

(5)(a) If a participating customer is located in an area that becomes annexed into the boundaries of a municipal electric utility organized under ORS chapter 225 or a people's utility district organized under ORS chapter 261:

(A) The participating customer may continue to be served by the qualified utility under the ORO Community Program pursuant to an agreement between the qualified utility and the annexing municipal electric utility or people's utility district; or

(B) If no agreement under subparagraph (A) of this paragraph is entered into, the annexing municipal electric utility or people's utility district shall pay an applicable termination charge as determined by the commission for each participating customer that will no longer be served by the ORO Community Program.

(b)(A) Nothing in this subsection authorizes or may be interpreted to authorize a municipal electric utility organized under ORS chapter 225 or a people's utility district organized under ORS chapter 261 to acquire the service territory of another electric utility as that term is defined in ORS 757.600 without the consent of the electric utility from which service territory was acquired.

(B) The provisions of this subsection do not authorize the acquisition by a municipal electric utility organized under ORS chapter 225 of service territory of a people's utility district organized under ORS chapter 261.

(6) A participating customer that declines to continue to participate in the ORO Community Program after the initial opt-out period has tolled may be subject to a termination charge, as determined by the commission, which may include the cost of renewable energy resources acquired or constructed for the ORO Community Program that are not being utilized by participating customers as necessary to prevent shifting costs to other customers.
of the qualified utility.

SECTION 5. (1) 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 authorized
pursuant to sections 2 to 6 of this 2021 Act is likely to result in conflicts with or compro-
mises to the qualified utility's obligation to comply with the mandatory and enforceable re-
iliability standards of the North American Electric Reliability Corporation, or compromises
to the integrity of the qualified utility's electrical system. A qualified utility making a re-
quest 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 conflicts with or
compromises to a qualified utility's obligation to comply with the mandatory and enforceable
reliability standards of the North American Electric Reliability Corporation, or compromises
to the integrity of the qualified utility's electrical system, the commission shall issue an or-
der:
(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) Rules adopted under this section must include provisions setting forth:
(a) The required number of public stakeholder meetings necessary for the public en-
gagement process required by section 3 (3)(b) of this 2021 Act.
(b) Competitive solicitation processes and any other required processes or rules for the acquisition of renewable energy resources to meet the energy requirements set forth in an application filed by one or more participating communities under section 3 of this 2021 Act, including:

(A) Processes and requirements for solicitation of renewable energy projects; and

(B) Processes necessary to enable new, long-term electricity sales contracts with existing, small renewable energy resources or large renewable energy resources to fulfill the energy requirements set forth in the application.

(c) A process for determining electricity rates for participating customers under an ORO Community Program that:

(A) Results in negligible shifting of costs or benefits to other customers of the qualified utility;

(B) Includes an assessment of the costs related to all aspects of administering the ORO Community Program for the commission, the qualified utility and the Public Purpose Fund Administrator and an assessment of how the costs may be recovered for those entities as part of the rate structure;

(C) Considers and addresses the needs of energy-burdened customers;

(D) Includes any required processes for cost recovery by a qualified utility for the acquisition of new renewable energy resources under the ORO Community Program; and

(E) Includes processes for qualified utilities to make rate adjustment filings as necessary.

(d) Notice and comment processes for ORO Community Program applications and proposals under section 3 of this 2021 Act.

(e) Timelines applicable to the application, proposal and approval processes under section 3 of this 2021 Act.

(f) A process for identifying and hiring an independent evaluator as required under section 3 (5) of this 2021 Act.

(g) A process for review and approval of ORO Community Programs under section 3 (2) of this 2021 Act.

(h) Terms and conditions of agreements necessary for implementation of an ORO Community Program.

(i) Any other requirements determined by the commission to be necessary to protect the public interest and to implement sections 2 to 6 of this 2021 Act.

(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 before 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.

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