

## SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 4076

By COMMITTEE ON ENERGY AND ENVIRONMENT

February 27

1 On page 1 of the printed A-engrossed bill, line 2, delete “469.504” and insert “215.446 and  
2 469.504; and prescribing an effective date”.

3 On page 3, after line 31, insert:

4 “**SECTION 2.** ORS 215.446 is amended to read:

5 “215.446. (1) As used in this section:

6 “(a) ‘Average electric generating capacity’ has the meaning given that term in ORS 469.300.

7 “(b) ‘Energy generation area’ has the meaning given that term in ORS 469.300.

8 “(c) ‘Renewable energy facility’ means:

9 “(A) A solar photovoltaic power generation facility using:

10 “(i) More than 100 acres but not more than 240 acres located on high-value farmland as defined  
11 in ORS 195.300;

12 “(ii) More than 100 acres but not more than 2,560 acres located on land that is predominantly  
13 cultivated or that, if not cultivated, is predominantly composed of soils that are in capability classes  
14 I to IV, as specified by the National Cooperative Soil Survey operated by the Natural Resources  
15 Conservation Service of the United States Department of Agriculture; or

16 “(iii) More than 320 acres but not more than 3,840 acres located on any other land.

17 “(B) An electric power generating plant with an average electric generating capacity of at least  
18 35 megawatts but less than 50 megawatts if the power is produced from geothermal energy at a  
19 single plant or within a single energy generation area.

20 “(C) An electric power generating plant with an average electric generating capacity of at least  
21 35 megawatts but less than 100 megawatts if the power is produced from wind energy at a single  
22 energy facility or within a single energy generation area.

23 “(2) An application for a land use permit to establish a renewable energy facility must be made  
24 under ORS 215.416. An applicant must demonstrate to the satisfaction of the county that the  
25 renewable energy facility meets the standards under subsection (3) of this section.

26 “(3) In order to issue a permit, the county shall require that the applicant:

27 “(a)(A) Consult with the State Department of Fish and Wildlife, prior to submitting a final ap-  
28 plication to the county, regarding fish and wildlife habitat impacts and any mitigation plan that is  
29 necessary;

30 “(B) Conduct a habitat assessment of the proposed development site;

31 “(C) Develop a mitigation plan to address significant fish and wildlife habitat impacts consistent  
32 with the administrative rules adopted by the State Fish and Wildlife Commission for the purposes  
33 of implementing ORS 496.012; and

34 “(D) Follow administrative rules adopted by the State Fish and Wildlife Commission and rules  
35 adopted by the Land Conservation and Development Commission to implement the Oregon Sage-

1 Grouse Action Plan and Executive Order 15-18.

2 “(b) Demonstrate that the construction and operation of the renewable energy facility, taking  
3 into account mitigation, will not result in significant adverse impacts to historic, cultural and  
4 archaeological resources that are:

5 “(A) Listed on the National Register of Historic Places under the National Historic Preservation  
6 Act (P.L. 89-665, 54 U.S.C. 300101 et seq.);

7 “(B) Inventoried in a local comprehensive plan; or

8 “(C) Evaluated as a significant or important archaeological object or archaeological site, as  
9 those terms are defined in ORS 358.905.

10 “(c) Demonstrate that the site for a renewable energy facility, taking into account mitigation,  
11 can be restored adequately to a useful, nonhazardous condition following permanent cessation of  
12 construction or operation of the facility and that the applicant has a reasonable likelihood of ob-  
13 taining financial assurances in a form and amount satisfactory to the county to secure restoration  
14 of the site to a useful, nonhazardous condition.

15 “(d) Meet the general and specific standards for a renewable energy facility adopted by the  
16 Energy Facility Siting Council under ORS 469.470 (2) and 469.501 that the county determines are  
17 applicable.

18 “(e) Provide the financial assurances described in paragraph (c) of this subsection in the form  
19 and at the time specified by the county.

20 “(f) For a renewable energy facility that is a solar photovoltaic power generation facility using  
21 the number of acres described in subsection (4) of this section, provide a decommissioning plan to  
22 accomplish the restoration of the site to a useful, nonhazardous condition as described in paragraph  
23 (c) of this subsection. A decommissioning plan provided under this paragraph must include bonding  
24 or other security as the financial assurances described in paragraph (c) of this subsection.

25 “(g) For a renewable energy facility that is an electric power generating plant with an average  
26 electric generating capacity of at least 50 megawatts but less than 100 megawatts that produces the  
27 power from wind energy at a single energy facility or within a single energy generation area, pro-  
28 vide a decommissioning plan to accomplish the restoration of the site to a useful, nonhazardous  
29 condition as described in paragraph (c) of this subsection. A decommissioning plan provided under  
30 this paragraph must include bonding or other security as the financial assurances described in par-  
31 agraph (c) of this subsection.

32 “(4) The requirements in subsection (3)(f) of this section apply to a solar photovoltaic power  
33 generation facility using:

34 “(a) More than 160 acres but not more than 240 acres located on high-value farmland as defined  
35 in ORS 195.300;

36 “(b) More than 1,280 acres but not more than 2,560 acres located on land that is predominantly  
37 cultivated or that, if not cultivated, is predominantly composed of soils that are in capability classes  
38 I to IV, as specified by the National Cooperative Soil Survey operated by the Natural Resources  
39 Conservation Service of the United States Department of Agriculture; or

40 “(c) More than 1,920 acres but not more than 3,840 acres located on any other land.

41 “(5) Upon receipt of a reasonable cost estimate from the state agency or tribe, the applicant and  
42 county may jointly enter into a cost reimbursement agreement administered by the county with:

43 “(a) The State Department of Fish and Wildlife to receive comments under subsection (3)(a) of  
44 this section.

45 “(b) The State Historic Preservation Officer or any affected federally recognized Indian tribe to

1 receive comments under subsection (3)(b) of this section.

2 “(c) The State Department of Energy to receive comments under subsection (3)(c) and (d) of this  
3 section as well as comments regarding other matters as the county may require.

4 “(6) A county that receives an application for a permit under this section shall, upon receipt  
5 of the application, provide notice to persons listed in subsection (7) of this section. The notice must  
6 include, at a minimum:

7 “(a) A description of the proposed renewable energy facility;

8 “(b) A description of the lots or parcels subject to the permit application;

9 “(c) The dates, times and locations where public comments or public testimony on the permit  
10 application can be submitted; and

11 “(d) The contact information for the governing body of the county and the applicant.

12 “(7) The notice required under subsection (6) of this section must be delivered to:

13 “(a) The State Department of Fish and Wildlife;

14 “(b) The State Department of Energy;

15 “(c) The State Historic Preservation Officer;

16 “(d) The Oregon Department of Aviation;

17 “(e) The United States Department of Defense; and

18 “(f) Federally recognized Indian tribes that may be affected by the application.

19 “(8) **If an exception is required under rules of the Land Conservation and Development  
20 Commission to allow the development of a renewable energy facility, a local government may  
21 justify a reason for an exception to a statewide land use planning goal relating to agricultural  
22 lands under ORS 197.732 (2)(c)(A), if:**

23 “(a) **The facility will deliver electricity to the electric grid utilizing the capacity of an  
24 existing energy facility’s point of interconnection that is under the existing energy facility’s  
25 interconnection agreement and is not being utilized and the electricity to be delivered does  
26 not exceed the original interconnection capacity of the existing energy facility;**

27 “(b) **The facility does not require associated transmission lines more than two miles from  
28 the site boundaries of the existing energy facility; and**

29 “(c) **The county adopts findings addressing:**

30 “(A) **The availability of nonresource lands suitable for the proposed use;**

31 “(B) **The availability and use of existing infrastructure, access and rights of way;**

32 “(C) **Public health and safety;**

33 “(D) **Compatibility with surrounding agricultural and rural uses;**

34 “(E) **A mitigation plan to address potential impacts to surrounding land uses, farm  
35 practices and water resulting from the construction or operation of the facility; and**

36 “(F) **Compliance with local, state or federal requirements.**

37 “**SECTION 3. This 2026 Act takes effect on the 91st day after the date on which the 2026  
38 regular session of the Eighty-third Legislative Assembly adjourns sine die.**”.