

HB 4076-1
(LC 253)
2/9/26 (CPA/ps)

Requested by Representative LIVELY

**PROPOSED AMENDMENTS TO
HOUSE BILL 4076**

1 In line 2 of the printed bill, before the period insert “; amending ORS
2 469.504”.

3 Delete lines 4 through 8 and insert:

4 **“SECTION 1.** ORS 469.504 is amended to read:

5 “469.504. (1) A proposed facility shall be found in compliance with the
6 statewide planning goals under ORS 469.503 (4) if:

7 “(a) The facility has received local land use approval under the acknowl-
8 edged comprehensive plan and land use regulations of the affected local
9 government; or

10 “(b) The Energy Facility Siting Council determines that:

11 “(A) The facility complies with applicable substantive criteria from the
12 affected local government’s acknowledged comprehensive plan and land use
13 regulations that are required by the statewide planning goals and in effect
14 on the date the application is submitted, and with any Land Conservation
15 and Development Commission administrative rules and goals and any land
16 use statutes that apply directly to the facility under ORS 197.646;

17 “(B) For an energy facility or a related or supporting facility that must
18 be evaluated against the applicable substantive criteria pursuant to sub-
19 section (5) of this section, that the proposed facility does not comply with
20 one or more of the applicable substantive criteria but does otherwise comply
21 with the applicable statewide planning goals, or that an exception to any

1 applicable statewide planning goal is justified under subsection (2) of this
2 section; or

3 “(C) For a facility that the council elects to evaluate against the state-
4 wide planning goals pursuant to subsection (5) of this section, that the pro-
5 posed facility complies with the applicable statewide planning goals or that
6 an exception to any applicable statewide planning goal is justified under
7 subsection (2) of this section.

8 “(2)(a) The council may find goal compliance for a facility that does not
9 otherwise comply with one or more statewide planning goals by taking an
10 exception to the applicable goal. Notwithstanding the requirements of ORS
11 197.732, the statewide planning goal pertaining to the exception process or
12 any rules of the Land Conservation and Development Commission pertaining
13 to an exception process goal, the council may take an exception to a goal if
14 the council finds:

15 “[a)] (A) The land subject to the exception is physically developed to the
16 extent that the land is no longer available for uses allowed by the applicable
17 goal;

18 “[b)] (B) The land subject to the exception is irrevocably committed as
19 described by the rules of the Land Conservation and Development Commis-
20 sion to uses not allowed by the applicable goal because existing adjacent
21 uses and other relevant factors make uses allowed by the applicable goal
22 impracticable; or

23 “[c)] (C) The following standards are met:

24 “[A)] (i) Reasons justify why the state policy embodied in the applicable
25 goal should not apply;

26 “[B)] (ii) The significant environmental, economic, social and energy
27 consequences anticipated as a result of the proposed facility have been
28 identified and adverse impacts will be mitigated in accordance with rules of
29 the council applicable to the siting of the proposed facility; and

30 “[C)] (iii) The proposed facility is compatible with other adjacent uses

1 or will be made compatible through measures designed to reduce adverse
2 impacts.

3 **“(b)(A) The council shall find that the standards under paragraph**
4 **(a)(C)(i) of this subsection are met if the council finds that the pro-**
5 **posed energy facility:**

6 **“(i) Will deliver electricity to the electric grid utilizing an existing**
7 **energy facility’s surplus interconnection; and**

8 **“(ii) Does not require associated transmission lines more than two**
9 **miles from the site boundaries of the existing energy facility.**

10 **“(B) As used subparagraph (A) of this paragraph, ‘surplus inter-**
11 **connection’ means any capacity at the point of interconnection under**
12 **an existing energy facility’s interconnection agreement that is not**
13 **being utilized and does not exceed the original interconnection capac-**
14 **ity of the existing energy facility.**

15 **“(3) If compliance with applicable substantive local criteria and applica-**
16 **ble statutes and state administrative rules would result in conflicting con-**
17 **ditions in the site certificate or amended site certificate, the council shall**
18 **resolve the conflict consistent with the public interest. A resolution may not**
19 **result in a waiver of any applicable state statute.**

20 **“(4) An applicant for a site certificate shall elect whether to demonstrate**
21 **compliance with the statewide planning goals under subsection (1)(a) or (b)**
22 **of this section. The applicant shall make the election on or before the date**
23 **specified by the council by rule.**

24 **“(5) Upon request by the State Department of Energy, the special advisory**
25 **group established under ORS 469.480 shall recommend to the council, within**
26 **the time stated in the request, the applicable substantive criteria under**
27 **subsection (1)(b)(A) of this section. If the special advisory group does not**
28 **recommend applicable substantive criteria within the time established in the**
29 **department’s request, the council may either determine and apply the appli-**
30 **cable substantive criteria under subsection (1)(b) of this section or determine**

1 compliance with the statewide planning goals under subsection (1)(b)(B) or
2 (C) of this section. If the special advisory group recommends applicable
3 substantive criteria for an energy facility described in ORS 469.300 or a re-
4 lated or supporting facility that does not pass through more than one local
5 government jurisdiction or more than three zones in any one jurisdiction, the
6 council shall apply the criteria recommended by the special advisory group.
7 If the special advisory group recommends applicable substantive criteria for
8 an energy facility as defined in ORS 469.300 (12)(a)(C) to (E) or a related or
9 supporting facility that passes through more than one jurisdiction or more
10 than three zones in any one jurisdiction, the council shall review the re-
11 commended criteria and determine whether to evaluate the proposed facility
12 against the applicable substantive criteria recommended by the special advi-
13 sory group, against the statewide planning goals or against a combination
14 of the applicable substantive criteria and statewide planning goals. In mak-
15 ing its determination, the council shall consult with the special advisory
16 group and shall consider:

17 “(a) The number of jurisdictions and zones in question;

18 “(b) The degree to which the applicable substantive criteria reflect local
19 government consideration of energy facilities in the planning process; and

20 “(c) The level of consistency of the applicable substantive criteria from
21 the various zones and jurisdictions.

22 “(6) The council is not subject to ORS 197.180 and a state agency may not
23 require an applicant for a site certificate to comply with any rules or pro-
24 grams adopted under ORS 197.180.

25 “(7) On or before its next periodic review, each affected local government
26 shall amend its comprehensive plan and land use regulations as necessary
27 to reflect the decision of the council pertaining to a site certificate or
28 amended site certificate.

29 “(8) Notwithstanding ORS 34.020 or 197.825 or any other provision of law,
30 the affected local government’s land use approval of a proposed facility under

1 subsection (1)(a) of this section and the special advisory group's recommen-
2 dation of applicable substantive criteria under subsection (5) of this section
3 shall be subject to judicial review only as provided in ORS 469.403. If the
4 applicant elects to comply with subsection (1)(a) of this section, the pro-
5 visions of this subsection shall apply only to proposed projects for which the
6 land use approval of the local government occurs after the date a notice of
7 intent or an application for expedited processing is submitted to the State
8 Department of Energy.

9 “(9) The State Department of Energy, in cooperation with other state
10 agencies, shall provide, to the extent possible, technical assistance and in-
11 formation about the siting process to local governments that request such
12 assistance or that anticipate having a facility proposed in their
13 jurisdiction.”.

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