

Requested by Representative LIVELY

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 4076**

1 On page 1 of the printed A-engrossed bill, line 2, delete “469.504” and in-
2 sert “215.446 and 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
7 term in ORS 469.300.

8 “(b) ‘Energy generation area’ has the meaning given that term in ORS
9 469.300.

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

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

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

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

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

21 “(B) An electric power generating plant with an average electric gener-

1 ating capacity of at least 35 megawatts but less than 50 megawatts if the
2 power is produced from geothermal energy at a single plant or within a
3 single energy generation area.

4 “(C) An electric power generating plant with an average electric gener-
5 ating capacity of at least 35 megawatts but less than 100 megawatts if the
6 power is produced from wind energy at a single energy facility or within a
7 single energy generation area.

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

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

13 “(a)(A) Consult with the State Department of Fish and Wildlife, prior to
14 submitting a final application to the county, regarding fish and wildlife
15 habitat impacts and any mitigation plan that is necessary;

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

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

21 “(D) Follow administrative rules adopted by the State Fish and Wildlife
22 Commission and rules adopted by the Land Conservation and Development
23 Commission to implement the Oregon Sage-Grouse Action Plan and Execu-
24 tive Order 15-18.

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

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

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

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

3 “(c) Demonstrate that the site for a renewable energy facility, taking into
4 account mitigation, can be restored adequately to a useful, nonhazardous
5 condition following permanent cessation of construction or operation of the
6 facility and that the applicant has a reasonable likelihood of obtaining fi-
7 nancial assurances in a form and amount satisfactory to the county to secure
8 restoration of the site to a useful, nonhazardous condition.

9 “(d) Meet the general and specific standards for a renewable energy fa-
10 cility adopted by the Energy Facility Siting Council under ORS 469.470 (2)
11 and 469.501 that the county determines are applicable.

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

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

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

30 “(4) The requirements in subsection (3)(f) of this section apply to a solar

1 photovoltaic power generation facility using:

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

4 “(b) More than 1,280 acres but not more than 2,560 acres located on land
5 that is predominantly cultivated or that, if not cultivated, is predominantly
6 composed of soils that are in capability classes I to IV, as specified by the
7 National Cooperative Soil Survey operated by the Natural Resources Con-
8 servation Service of the United States Department of Agriculture; or

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

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

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

16 “(b) The State Historic Preservation Officer or any affected federally re-
17 cognized Indian tribe to receive comments under subsection (3)(b) of this
18 section.

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

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

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

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

27 “(c) The dates, times and locations where public comments or public tes-
28 timony on the permit application can be submitted; and

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

1 “(7) The notice required under subsection (6) of this section must be de-
2 livered to:

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

4 “(b) The State Department of Energy;

5 “(c) The State Historic Preservation Officer;

6 “(d) The Oregon Department of Aviation;

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

8 “(f) Federally recognized Indian tribes that may be affected by the appli-
9 cation.

10 **“(8) If an exception is required under rules of the Land Conserva-
11 tion and Development Commission to allow the development of a
12 renewable energy facility, a local government may justify a reason for
13 an exception to a statewide land use planning goal relating to agri-
14 cultural lands under ORS 197.732 (2)(c)(A), if:**

15 **“(a) The facility will deliver electricity to the electric grid utilizing
16 the capacity of an existing energy facility’s point of interconnection
17 that is under the existing energy facility’s interconnection agreement
18 and is not being utilized and the electricity to be delivered does not
19 exceed the original interconnection capacity of the existing energy
20 facility;**

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

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

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

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

29 **“(C) Public health and safety;**

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

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

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

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

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