House Bill 2864

Sponsored by Representatives HUFFMAN, JENSON; Representatives BERGER, BOONE, KOMP, Senator EDWARDS (Presession filed.)

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.**

Allows small hydroelectric facilities that are owned by consumer-owned utilities and that became operational before 1995 to qualify for renewable portfolio standard.

A BILL FOR AN ACT

Relating to hydroelectric facilities that generate electricity that may be used to comply with renewable portfolio standards; creating new provisions; and amending ORS 469A.020 and 469A.025.

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

SECTION 1. ORS 469A.020, as amended by section 1, chapter 17, Oregon Laws 2010, and section 1, chapter 71, Oregon Laws 2010, is amended to read:

469A.020. (1) Except as provided in this section, electricity may be used to comply with a renewable portfolio standard only if the electricity is generated by a facility that becomes operational on or after January 1, 1995.

(2) Electricity from a generating facility, other than a hydroelectric facility, that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the electricity is attributable to capacity or efficiency upgrades made on or after January 1, 1995.

(3) Electricity from a hydroelectric facility that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the electricity is attributable to efficiency upgrades made on or after January 1, 1995. If an efficiency upgrade is made to a Bonneville Power Administration facility, only that portion of the electricity generation attributable to Oregon's share of the electricity may be used to comply with a renewable portfolio standard.

(4) Subject to the limit imposed by ORS 469A.025 (5), electricity from a hydroelectric facility that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if**:**

(a) The facility is a hydroelectric facility owned by a consumer-owned utility that is located in this state and the facility generates an average of no more than five megawatts of electricity per year; or

(b) The facility is certified as a low-impact hydroelectric facility on or after January 1, 1995, by a national certification organization recognized by the State Department of Energy by rule, and if the facility is either:

[*(a)*] **(A)** Owned by an electric utility; or

[*(b)*] **(B)** Not owned by an electric utility and located in Oregon and licensed by the Federal Energy Regulatory Commission under the Federal Power Act, 16 U.S.C. 791a et seq., or exempt from such license.

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.

(5)(a) Electricity from a generating facility located in this state that uses biomass and that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the facility meets the requirements of the federal Public Utility Regulatory Policies Act of 1978 (P.L. 95-617) on March 4, 2010, regardless of whether the facility qualifies under the requirements of the Public Utility Commission.

(b) Renewable energy certificates derived from electricity generated by a facility that qualifies under paragraph (a) of this subsection may not be used to comply with a renewable portfolio standard before January 1, 2026. However, renewable energy certificates issued before January 1, 2026, may be banked pursuant to ORS 469A.005 to 469A.210 for use on or after January 1, 2026.

(6) A facility located in this state that generates electricity from direct combustion of municipal solid waste and that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard for up to 11 average megawatts of electricity generated per calendar year. Renewable energy certificates derived from electricity generated by a facility described in this subsection may not be used to comply with a renewable portfolio standard before January 1, 2026. However, renewable energy certificates issued before January 1, 2026, may be banked pursuant to ORS 469A.005 to 469A.210 for use on or after January 1, 2026.

SECTION 2. ORS 469A.025, as amended by section 3, chapter 17, Oregon Laws 2010, and section 2, chapter 71, Oregon Laws 2010, is amended to read:

469A.025. (1) Electricity generated utilizing the following types of energy may be used to comply with a renewable portfolio standard:

(a) Wind energy.

(b) Solar photovoltaic and solar thermal energy.

(c) Wave, tidal and ocean thermal energy.

(d) Geothermal energy.

(2) Except as provided in subsection (3) of this section, electricity generated from biomass and biomass by-products may be used to comply with a renewable portfolio standard, including but not limited to electricity generated from:

(a) Organic human or animal waste;

(b) Spent pulping liquor;

(c) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce uncharacteristic stand replacing wildfire risk;

(d) Wood material from hardwood timber grown on land described in ORS 321.267 (3);

(e) Agricultural residues;

(f) Dedicated energy crops; and

(g) Landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters or municipal solid waste.

(3) Electricity generated from the direct combustion of biomass may not be used to comply with a renewable portfolio standard if any of the biomass combusted to generate the electricity includes wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate.

(4) Electricity generated by a hydroelectric facility may be used to comply with a renewable portfolio standard only if:

(a) The facility is located outside any protected area designated by the Pacific Northwest Electric Power and Conservation Planning Council as of July 23, 1999, or any area protected under the federal Wild and Scenic Rivers Act, P.L. 90-542, or the Oregon Scenic Waterways Act, ORS 390.805

to 390.925; or

(b) The electricity is attributable to efficiency upgrades made to the facility on or after January 1, 1995.

(5)(a) Up to 50 average megawatts of electricity per year generated by an electric utility from [*certified low-impact*] hydroelectric facilities described in ORS 469A.020 (4)(a) **and (4)(b)(A)** may be used to comply with a renewable portfolio standard, without regard to the number of certified facilities operated by the electric utility or the generating capacity of those facilities. A hydroelectric facility described in this paragraph is not subject to the requirements of subsection (4) of this section.

(b) Up to 40 average megawatts of electricity per year generated by certified low-impact hydroelectric facilities described in ORS 469A.020 (4)(b)**(B)** may be used to comply with a renewable portfolio standard, without regard to the number of certified facilities or the generating capacity of those facilities. A hydroelectric facility described in this paragraph is not subject to the requirements of subsection (4) of this section.

(6)(a) Direct combustion of municipal solid waste in a generating facility located in this state may be used to comply with a renewable portfolio standard. The qualification of a municipal solid waste facility for use in compliance with a renewable portfolio standard has no effect on the qualification of the facility for a tax credit under ORS 469.185 to 469.225.

(b) The total amount of electricity generated in this state by direct combustion of municipal solid waste by generating facilities that became operational in this state on or after January 1, 1995, may not exceed nine average megawatts per year for the purpose of complying with a renewable portfolio standard.

(7) Electricity generated from hydrogen gas, including electricity generated by hydrogen power stations using anhydrous ammonia as a fuel source, may be used to comply with a renewable portfolio standard if:

(a) The electricity is derived from:

(A) Any source of energy described in subsection (1) or (2) of this section; or

(B) A hydroelectric facility that complies with subsection (4) of this section and that is certified as a low-impact hydroelectric facility as described in ORS 469A.020 (4); and

(b) The output of the original source of energy is not also used to comply with a renewable portfolio standard.

(8) If electricity generation employs multiple energy sources, that portion of the electricity generated that is attributable to energy sources described in this section may be used to comply with a renewable portfolio standard.

(9) The State Department of Energy by rule may approve energy sources other than those described in this section that may be used to comply with a renewable portfolio standard. The department may not approve petroleum, natural gas, coal or nuclear fission as an energy source that may be used to comply with a renewable portfolio standard.

SECTION 2. The amendments to ORS 469A.020 and 469A.025 by sections 1 and 2 of this 2011 Act apply to electricity generated on or after January 1, 2012.