

# House Bill 2136

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Energy and Environment)

## 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**.

Creates schedule by which certain percentage of electricity sold by electric company to retail electricity consumers must be electricity generated by qualifying small-scale renewable energy projects. Specifies, for small-scale renewable energy projects, electricity delivery requirements.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to small-scale renewable energy projects; amending ORS 469A.005, 469A.200 and 469A.210;  
3 and declaring an emergency.

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

5 **SECTION 1.** ORS 469A.210, as amended by section 14, chapter 28, Oregon Laws 2016, is  
6 amended to read:

7 469A.210. (1) The Legislative Assembly finds **and declares** that [*community-based*]:

8 (a) **Small-scale** renewable energy projects, including [*but not limited to*] marine renewable en-  
9 ergy resources that are either developed in accordance with the Territorial Sea Plan adopted pur-  
10 suant to ORS 196.471 or located on structures adjacent to the coastal shorelands, are an essential  
11 element of this state's energy future[.];

12 (b) **Small-scale renewable energy projects are one of the integral parts of this state's**  
13 **emergency preparedness and, when paired with energy storage and other emerging technol-**  
14 **ogy, help ensure that electricity will be available during catastrophic natural disasters;**

15 (c) **A diverse portfolio of electricity generation projects that includes small-scale**  
16 **renewable energy projects helps reduce the risk of power outages and other technical and**  
17 **financial failures;**

18 (d) **A diverse portfolio of electricity generation projects that includes small-scale**  
19 **renewable energy projects helps reduce the need to construct transmission lines to supply**  
20 **electricity to retail electricity consumers from a single large-scale electricity generation**  
21 **project;**

22 (e) **Supplying electricity to retail electricity consumers that is generated by small-scale**  
23 **renewable energy projects is necessary in order to meet the renewable portfolio standard**  
24 **established under ORS 469A.005 to 469A.210 and therefore necessary for improving this**  
25 **state's air quality and public health;**

26 (f) **Small-scale renewable energy projects have a smaller footprint on the landscape than**  
27 **large-scale electricity generation projects and, therefore, are more easily incorporated into**  
28 **existing infrastructure; and**

29 (g) **Absent the requirement established in this section, electric companies might other-**  
30 **wise procure electricity only from large-scale electricity generation projects.**

**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.

1        *[(2) For purposes related to the findings in subsection (1) of this section, by the year 2025, at least*  
 2 *eight percent of the aggregate electrical capacity of all electric companies that make sales of electricity*  
 3 *to 25,000 or more retail electricity consumers in this state must be composed of electricity generated by*  
 4 *one or both of the following sources:]*

5        *[(a) Small-scale renewable energy projects with a generating capacity of 20 megawatts or less; or]*

6        *[(b) Facilities that generate electricity using biomass that also generate thermal energy for a sec-*  
 7 *ondary purpose.]*

8        **(2) For purposes related to the findings in subsection (1) of this section:**

9        **(a) At least six percent of the electricity sold in this state by an electric company to re-**  
 10 **tail electricity consumers in each of the calendar years 2020, 2021, 2022, 2023 and 2024 must**  
 11 **be electricity generated by qualifying small-scale renewable energy projects;**

12        **(b) At least eight percent of the electricity sold in this state by an electric company to**  
 13 **retail electricity consumers in 2025 must be electricity generated by qualifying small-scale**  
 14 **renewable energy projects;**

15        **(c) At least nine percent of the electricity sold in this state by an electric company to**  
 16 **retail electricity consumers in each of the calendar years 2026, 2027, 2028 and 2029 must be**  
 17 **electricity generated by qualifying small-scale renewable energy projects;**

18        **(d) At least 11 percent of the electricity sold in this state by an electric company to retail**  
 19 **electricity consumers in each of the calendar years 2030, 2031, 2032, 2033 and 2034 must be**  
 20 **electricity generated by qualifying small-scale renewable energy projects;**

21        **(e) At least 15 percent of the electricity sold in this state by an electric company to retail**  
 22 **electricity consumers in each of the calendar years 2035, 2036, 2037, 2038 and 2039 must be**  
 23 **electricity generated by qualifying small-scale renewable energy projects; and**

24        **(f) At least 17 percent of the electricity sold in this state by an electric company to retail**  
 25 **electricity consumers in the calendar year 2040 and subsequent calendar years must be**  
 26 **electricity generated by qualifying small-scale renewable energy projects.**

27        **(3)(a) A small-scale renewable energy project is qualified for purposes of subsection (2)**  
 28 **of this section if the small-scale renewable energy project:**

29        **(A) Is one of the following types of facilities:**

30        **(i) A facility with a generating capacity of 20 megawatts or less that generates electricity**  
 31 **using a qualified renewable energy source, that is not a disaggregated facility with a gener-**  
 32 **ating capacity that exceeds 20 megawatts and that is not owned by an electric company; or**

33        **(ii) Subject to paragraph (b) of this subsection, a facility that generate electricity using**  
 34 **biomass that also generates thermal energy for a secondary purpose; and**

35        **(B) Procures electricity in accordance with one of the following delivery requirements:**

36        **(i) The small-scale renewable energy project has a first point of interconnection within**  
 37 **the metered boundaries of balancing authority area of a balancing authority that serves any**  
 38 **amount of the electrical load of an electric company in this state;**

39        **(ii) The small-scale renewable energy project has a first point of interconnection with a**  
 40 **distribution facility that is used to serve retail electricity consumers within the metered**  
 41 **boundaries of a balancing authority area of a balancing authority that serves any amount**  
 42 **of the electrical load of an electric company in this state;**

43        **(iii) If the small-scale renewable energy project is not interconnected as described in**  
 44 **sub-subparagraphs (i) and (ii) of this subparagraph, the electricity procured by the small-**  
 45 **scale renewable energy project is scheduled for delivery into a balancing authority that**

1 serves any amount of the electrical load of an electric company in this state without sub-  
 2 stituting electricity from any other source; or

3 (iv) The owner or operator of the small-scale renewable energy project has an agreement  
 4 to dynamically transfer electricity to a balancing authority that serves any amount of the  
 5 electrical load of an electric company in this state.

6 (b) Electricity generated by any single facility described in paragraph (a)(A)(ii) of this  
 7 subsection may be used to comply with the requirements specified in subsection (2) of this  
 8 section only for up to 20 average megawatts of electricity generated by the facility per cal-  
 9 endar year, regardless of the facility's nameplate capacity.

10 (c) For purposes of paragraph (a)(B)(iii) of this subsection, the use of any other energy  
 11 source to provide ancillary services that are necessary to maintain an hourly or sub-hourly  
 12 import schedule by the balancing authority is permitted, and electricity generated by the  
 13 small-scale renewable energy project may be used for the purpose of complying with the re-  
 14 quirements of subsection (2) of this section even if the amount of electricity generated is  
 15 different than the amount of electricity necessary to maintain the hourly or sub-hourly im-  
 16 port schedule.

17 (5) An electric company must comply with the requirements of subsection (2) of this  
 18 section by acquiring renewable energy certificates associated with the procurement of elec-  
 19 tricity by small-scale renewable energy projects during the calendar year for which the  
 20 electric company seeks compliance. An electric company may not use banked renewable en-  
 21 ergy certificates or unbundled renewable energy certificates to meet the requirements of  
 22 subsection (2) of this section. An electric company may use renewable energy certificates  
 23 associated with the procurement of electricity by small-scale renewable energy projects for  
 24 purposes of complying with this section and ORS 469A.052 to the extent otherwise permitted  
 25 under ORS 469A.005 to 469A.210.

26 (6) The requirements of this section do not apply to:

27 (a) An electricity service supplier; or

28 (b) An electric company that makes sales of electricity to 25,000 or fewer electricity  
 29 consumers in this state.

30 **SECTION 2.** ORS 469A.005, as amended by section 3, chapter 28, Oregon Laws 2016, is amended  
 31 to read:

32 469A.005. As used in ORS 469A.005 to 469A.210:

33 (1) "Acquires service territory" does not include an acquisition by a city of a facility, plant,  
 34 equipment or service territory within the boundaries of the city, pursuant to ORS 225.020 or city  
 35 charter, if the city:

36 (a) Already owns, controls or operates an electric light and power system for supplying elec-  
 37 tricity to the inhabitants of the city and for general municipal purposes;

38 (b) Provides fair, just and reasonable compensation to the electric company whose service ter-  
 39 ritory is acquired that:

40 (A) Gives consideration for the service territory rights and the cost of the facility, plant or  
 41 equipment acquired and for depreciation, fair market value, reproduction cost and any other rele-  
 42 vant factor; and

43 (B) Is based on the present value of the service territory rights and the facility, plant and  
 44 equipment acquired, including the value of poles, wires, transformers and similar and related appli-  
 45 ances necessarily required to provide electric service; and

1 (c) Pays any stranded costs obligation established pursuant to section 18, chapter 28, Oregon  
 2 Laws 2016.

3 **(2) “Ancillary services” means services necessary or incidental to the transmission and**  
 4 **delivery of electricity from generating facilities to retail electricity consumers.**

5 **(3) “Balancing authority” means the entity responsible for integrating resource plans**  
 6 **ahead of time, maintaining load-interchange-generation balance within a balancing authority**  
 7 **area and supporting interconnection frequency in real time.**

8 **(4) “Balancing authority area” means the collection of generation, transmission and loads**  
 9 **within the metered boundaries of a balancing authority.**

10 [(2)] **(5) “Banked renewable energy certificate” means a bundled or unbundled renewable energy**  
 11 **certificate that is not used by an electric utility or electricity service supplier to comply with a**  
 12 **renewable portfolio standard in a calendar year, and that is carried forward for the purpose of**  
 13 **compliance with a renewable portfolio standard in a subsequent year.**

14 [(3)] **(6) “BPA electricity” means electricity provided by the Bonneville Power Administration,**  
 15 **including electricity generated by the Federal Columbia River Power System hydroelectric projects**  
 16 **and electricity acquired by the Bonneville Power Administration by contract.**

17 [(4)] **(7) “Bundled renewable energy certificate” means a renewable energy certificate for quali-**  
 18 **fying electricity that is acquired:**

19 (a) By an electric utility or electricity service supplier by a trade, purchase or other transfer  
 20 of electricity that includes the renewable energy certificate that was issued for the electricity; or

21 (b) By an electric utility by generation of the electricity for which the renewable energy cer-  
 22 tificate was issued.

23 [(5)] **(8) “Compliance year” means the calendar year for which the electric utility or electricity**  
 24 **service supplier seeks to establish compliance with the renewable portfolio standard applicable to**  
 25 **the electric utility or electricity service supplier in the compliance report submitted under ORS**  
 26 **469A.170.**

27 [(6)] **(9) “Consumer-owned utility” means a municipal electric utility, a people’s utility district**  
 28 **organized under ORS chapter 261 that sells electricity or an electric cooperative organized under**  
 29 **ORS chapter 62.**

30 [(7)] **(10) “Distribution utility” has the meaning given that term in ORS 757.600.**

31 [(8)] **(11) “Electric company” has the meaning given that term in ORS 757.600.**

32 [(9)] **(12) “Electric utility” has the meaning given that term in ORS 757.600.**

33 [(10)] **(13) “Electricity service supplier” has the meaning given that term in ORS 757.600.**

34 [(11)] **(14) “Qualifying electricity” means electricity described in ORS 469A.010.**

35 [(12)] **(15) “Renewable energy source” means a source of electricity described in ORS 469A.025.**

36 [(13)] **(16) “Retail electricity consumer” means a retail electricity consumer, as defined in ORS**  
 37 **757.600, that is located in Oregon.**

38 [(14)] **(17) “Unbundled renewable energy certificate” means a renewable energy certificate for**  
 39 **qualifying electricity that is acquired by an electric utility or electricity service supplier by trade,**  
 40 **purchase or other transfer without acquiring the electricity that is associated with the renewable**  
 41 **energy certificate.**

42 **SECTION 3. ORS 469A.200 is amended to read:**

43 469A.200. If an electric company or electricity service supplier that is subject to a renewable  
 44 portfolio standard under ORS 469A.005 to 469A.210 fails to comply with the standard in the manner  
 45 provided by ORS 469A.005 to 469A.210, **or if an electric company that is subject to the re-**

1 **quirements of ORS 469A.210 fails to comply with the requirements of ORS 469A.210**, the Public  
2 Utility Commission may impose a penalty against the company or supplier in an amount determined  
3 by the commission. A penalty under this section is in addition to any alternative compliance pay-  
4 ment required or elected under ORS 469A.180. Moneys paid for penalties under this section shall  
5 be transmitted by the commission to the nongovernmental entity receiving moneys under ORS  
6 757.612 (3)(d) and may be used only for the purposes specified in ORS 757.612 (1).

7 **SECTION 4. An electric company must acquire or otherwise procure energy from small-**  
8 **scale renewable energy projects as soon as practicable after the effective date of this 2017**  
9 **Act in order to meet the requirements of ORS 469A.210 (2).**

10 **SECTION 5. This 2017 Act being necessary for the immediate preservation of the public**  
11 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**  
12 **on its passage.**

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