

HB 3180 -3 STAFF MEASURE SUMMARY
House Committee On Energy and Environment

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Meeting Dates: 4/5, 4/12

WHAT THE MEASURE DOES:

Renewable Portfolio Standards

Authorizes electricity from a fossil phase-out facility that became operational before, on, or after the effective date of this 2021 Act may be used to comply with a renewable portfolio standard to the extent that the electricity is renewable thermal electricity. Establishes that the large utility renewable portfolio standard imposes the following **qualifying electricity requirements** on an electric utility that makes sales of electricity to retail electricity consumers in an amount that equals three percent or more of all electricity sold to retail electricity consumers:

- 1) **at least 20 percent** of the electricity sold in each of the calendar years **2020 and 2021**;
- 2) **at least 25 percent** of the electricity sold in **2022**;
- 3) from 2023 onward, increase by a constant amount to achieve **at least 90 percent** of the electricity sold by **2035**;
and
- 4) from 2036 onward, increase by a constant amount to achieve **100% of the electricity sold before 2051 is qualifying electricity**.

Requires an electric utility to comply with the renewable portfolio standard following a schedule of **unspecified percentages** of the electricity sold by the electric utility to retail electricity consumers in a calendar year to be qualifying electricity beginning in the 10th, 15th and 20th calendar years in which the electric utility becomes subject to the renewable portfolio standard. Requires **100 percent of the electricity sold** to retail electricity consumers in a calendar year by an electric utility **beginning in calendar year 2050** to be qualifying electricity if the electric utility makes sales of electricity to retail electricity consumers in an amount that equals less than three percent of all electricity sold to retail electricity consumers. Allows electric utilities to not comply with a renewable portfolio standard in certain circumstances. Requires **50 percent of the renewable energy certificates** that were issued for electricity generated by a facility constructed on or after the effective date of this Act, out of the renewable energy certificates used by an electric utility to meet the renewable portfolio standard applicable to that electric utility in a compliance year, to be for electricity generated by a facility that provides direct energy resiliency or environmental benefits in Oregon; and, out of the electricity available to an electric utility from an electricity storage facility and used by the electric utility to offset the renewable portfolio standard in a compliance year, **50 percent of the stored electricity** must be from an electricity storage facility constructed on or after the effective date of this Act that provides direct energy resiliency or environmental benefits in this state. Repeals ORS 469A.075. Establishes that the incremental cost of compliance with a renewable portfolio standard is the difference between the levelized annual delivered cost of the qualifying electricity and what the levelized annual delivered cost of an equivalent amount of qualifying electricity would have been if the applicable renewable portfolio standard for the compliance year had continued to be in effect. Requires the Public Utility Commission (PUC) or the governing body of a consumer-owned utility to use the net present value of delivered cost, including, but not limited to costs associated with compliance with all applicable local, state, regional or federal laws other than the renewable portfolio standard, including but not limited to laws relating to emissions pricing, the social cost of carbon, resilience or reliability. Establishes that all prudently incurred costs associated with compliance recoverable in the rates of an electric company, including but not limited to power purchase

costs and energy storage costs. Requires PUC to establish an automatic adjustment clause to construct or otherwise acquire facilities **that are fossil phase-out facilities**. Requires PUC to impose a penalty, in an amount determined by the commission to be sufficient to deter noncompliance, against an electric company or electricity service supplier that is subject to a renewable portfolio standard fails to comply with the standard, but disallows the penalty from being recovered in the rates of an electric company. Requires PUC to adopt by rule standards and procedures for imposing **penalties for noncompliance**.

Community-Based Renewable Energy

Requires, by calendaryear **2025, at least eight percent** of the electricity sold in this state by each electric company that makesales of electricity to 25,000 or more retail electricity consumers in this state to be composed of electricity generated from specific sources, including but not limited to **small-scale renewable energy projects or small power production facilities**.

Fossil Phase-Out Provisions

Establishes qualifications for natural gas-fired resources as a fossil phase-out facility. Requires PUC, in consultation with the State Department of Energy (ODOE), to adopt by rule standards and procedures for determining whether a generating unit qualifies, and maintains qualification as, a fossil fuel phase-out facility. Requires an electric company, on or before January 1, 2030, to eliminate natural gas-fired resources that are not fossil phase-out facilities from its allocation of electricity and establishes total annual fossil fuel content of all electricity procured by an electric company serving retail electricity consumers in Oregon. Requires PUC to require an electric company to submit compliance reports for the purpose of detailing compliance, or failure to comply, with fossil-phase-out and requires PUC, in consultation with the Department of Environmental Quality (DEQ), to establish by rule requirements for compliance reports.

Integrated Clean Energy Implementation Planning

Requires an electric company to develop an integrated, **clean energy implementation plan**—containing certain information about targets, cost, risk, upgrades, sourcing, staffing, and transmission needs—for meeting the requirements of all clean energy standards applicable to the electric company and file the implementation plan with PUC. Requires PUC to acknowledge or reject an implementation plan no later than six months after the implementation plan is filed with the commission and authorizes the PUC to acknowledge or reject the implementation plan subject to conditions specified by the commission. Requires PUC to adopt rules that establish specific requirements, procedures, and evaluations of implementation.

Storage Requirements

Requires an electric company to, in specific years, procure qualifying energy storage of certain types, in sufficient amounts necessary to provide the electric company with a cumulative capacity to store the following percentages of the electric company’s historic single-hour peak load and exempts an electric company that makes sales of electricity to 25,000 or more retail electricity consumers in this state is exempt from these provisions. Requires PUC, by rule or order, to adopt additional standards for specific years, as necessary to facilitate compliance by electric companies with the applicable clean energy standards while protecting electric system reliability. Establishes that to be qualifying energy storage, a distributed energy storage facility must meet certain criteria, including, but not limited to, support transportation electrification and provide residential or commercial backup power during a loss of grid-supplied electricity in an emergency. Requires PUC to adopt rules for implementation as necessary and, at a minimum, the rules must: 1) **support the potential forqualifying energy storageto provide peaking capacity** for electric companies; 2) **support the diverse ownership of qualifying energy storage facilities**; 3) encourage the location of qualifying energy storage facilities in a manner that **promotes the substantial state interests**; 4) allow for qualifying energy storage to store and **discharge energy to and from wholesale markets** in a manner that does not discourage or impede the ownership of qualifying energy storage by persons that are not

electric companies; and 5) require electric companies to **take requirements into account as part of calculating avoided costs.**

Utility Regulation Generally

The PUC shall serve the public interest by: 1) when deciding or deliberating toward a decision, protecting the customers of any public utility or telecommunications utility, and the public generally; 2) developing and implementing policies and rules that encourage social equity, environmental justice, the enhancement of the environment, greenhouse gas emissions reductions, diversity of the ownership and locations of electricity generation systems, resiliency for emergency conditions including wildfire risks, and the fulfillment of the state's energy and climate policies; 3) Allowing and fostering broad participation in the regulatory process; and 4) Protecting the 10 percent of residential ratepayers with the lowest incomes from cost increases associated with the consequences of state policies.

Requires PUC, in order to facilitate investments in generation, storage, transmission and distribution facilities and other transmission system and grid upgrades necessary to ensure compliance with, and mitigate the risks of compliance with, clean energy standards, to establish one or more **performance-based ratemaking mechanisms** or other rules to incentivize electric companies to achieve certain goals. Establishes guidelines for **power purchase agreements**. Requires PUC to adopt a performance-based ratemaking mechanism that allows for an electric company to: receive one or more graduated performance incentives, or to be subject to one or more graduated performance disincentives, in the form of an increased or decreased overall rate of return, respectively, for overperforming or underperforming relative to the one or more of the clean energy standards applicable to the electric company in a calendar year; and pay a performance incentive on specific power purchase agreements applicable to compliance with the clean energy standards. Requires an electric company or Oregon Community Power, beginning on the date they offer direct access to retail electricity consumers, except residential electricity consumers, to collect a public purpose charge from all of the retail electricity consumers **equal to three percent** of the total revenues collected by the electric company, Oregon Community Power or the electricity service supplier from retail electricity consumers for electricity services, distribution services, ancillary services, metering and billing, transition charges and other types of costs included in electric rates on July 23, 1999. Requires an aluminum plant that averages more than 100 average megawatts of electricity use per year, the electric company or Oregon Community Power, whichever serves territory that abuts the greatest percentage of the site of the aluminum plant, to collect from the aluminum company a public purpose charge **equal to one percent** of the total revenue from the sale of electricity services to the aluminum plant from any source. Authorizes an electric company to collect a nonbypassable public purpose charge not to exceed three percent of the revenues in addition to the public purpose charge and requires PUC to a public purpose charge if collection of the public purpose charge is justified to mitigate costs or schedule risk associated with an electric company's obligation to comply with the renewable portfolio standard.

Requires PUC to direct the manner in which public purpose charges are collected and invested by an electric company under this subsection, and may require the funds collected through public purpose charges to be paid to specific nongovernmental entities. Requires PUC to direct the funds to be invested in a manner that encourages ownership of on-system distributed generation, storage, and energy efficiency resources by members of federally recognized Oregon Indian tribes and economically and environmentally vulnerable communities.

Cogeneration and Small Power Production Facilities

Requires PUC to: (a) promote the development of a diverse array of permanently sustainable energy resources using the public and private sectors to the highest degree possible; and (b) insure that rates for purchases by an electric utility from, and rates for sales to, a qualifying facility shall over the term of a contract be just and reasonable to the electric consumers of the electric utility, the qualifying facility and in the public

interest. Requires electric utility to prepare, publish, and file with the PUC, at least once every two years, a schedule of avoided costs equaling the utility's forecasted incremental cost of electric resources over at least the next **35** years. Requires projected **avoided costs** calculated at the time the legal obligation to purchase the energy or energy and capacity is incurred and for avoided costs to meet certain criteria. Requires an electric utility, in identifying resource needs through integrated resource planning and in calculating avoided costs, to forecast a reasonable failure rate for qualifying facilities as compared to the total amount contracted. Requires an electric utility to offer, in all **competitive procurement contracts, standard contracts, and rates**, to purchase energy or energy and capacity from new qualifying facilities at price premiums of specific percentages of the purchase price. Requires a public utility to offer, and the commission shall approve, **standard avoided-cost rates** and simple standard contracts, that meet certain criteria, for the purchase of energy or energy and capacity from qualifying facilities with a design capacity of not greater than 80 megawatts alternating current. Requires a public utility to provide separate **standard pricing schedules** offering incremental capacity pricing for storage facilities that are co-located or otherwise incorporated with qualifying facilities if the storage facilities charge from the qualifying facility. Requires a public utility shall act in good faith and with fair dealing in providing, executing, and carrying out agreements for the purchase of energy or energy and capacity from a qualifying facility and regarding all related interconnection studies and processes and the public utility is prohibited from engaging in certain activities.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-3 Establishes that the large utility renewable portfolio standard imposes the following **qualifying electricity requirements** on an electric utility that makes sales of electricity in an amount that equals three percent or more of all electricity sold to retail electricity consumers: **at least 25 percent** of the electricity sold in **2025 by a consumer-owned utility** to retail electricity consumers. Adds ORS 469.210 to and makes part of ORS chapter 757. Requires, by calendaryear **2030, at least five percent** and by **2035 at least 10 percent** of the electricity sold in this state by each electric company that makesales of electricity to 25,000 or more retail electricity consumers in this state to be composed of electricity generated from specific sources, including but not limited to **small-scale renewable energy projects or small power production facilities**.

Requires an electric company to develop an integrated, clean energy implementation plan for meeting the requirements of all clean energy standards applicable to the electric company and file the implementation plan with PUC, including information about electricity generated by sources any single small-scale renewable energy projects or facilities that generate electricity using biomass that also generate thermal energy for a secondary purpose may be used to comply with the requirement specified in subsection (2) of this section for up to 20 megawatts of capacity, regardless of the facility's nameplate capacity. Removes requirement for a schedule for implementation of the clean energy plan that would include separate, nonlinear biennial targets for meeting the clean energy plan requirements.

Requires projected **avoided costs** calculated at the time the legal obligation to purchase the energy or energy and capacity is incurred and for avoided costs to: 1) Not be less than the greater of the equivalent cost for a utility-owned facility that is used as a reference or the equivalent average pricing for the electric utility's three most recently constructed facilities of the same resource type and three most recently contracted facilities for which security was posted after power contract execution by a seller that was not an electric utility; 2) be calculated based on the electric utility's long-term avoided costs of acquiring facilities that will be in service a minimum of 20 years or energy under long-term power purchase agreements of 20 years of more; 3) account for the scarcity of availability and development of generation and transmission given reasonable projections of supply and demand, which must consider the effects of local, state, regional or federal laws relating to clean energy,

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emissions pricing, the social cost of carbon, resilience, or reliability; and 4) account for penalties, performance-based ratemaking mechanisms, and price premiums.

Requires electric company or facility (owner) to award contracts to a training agent and to: 1) award subcontracts with an estimated cost of at least \$250,000 only to a subcontractor who is a training agent; 2) provide in all subcontracts the contractor awards for work under a qualified contract in which the contract price for the subcontract exceeds \$250,000 that the subcontractor undertake the duties of paying the prevailing wage and making a good-faith effort to encourage specific populations to perform contracted work; 3) pay the prevailing rate of wage for an hour's work in the same trade or occupation in the locality where the labor is performed and employ apprentices to perform 15 percent of the work hours that workers in apprenticeable occupations perform under the qualified contract, except that if the proposed renewable energy generation facility will be located in a nonurban county then the qualified contract may allow a contractor to either pay the prevailing rate of wage for an hour's work in the same trade or occupation in the locality where the labor is performed; or employ apprentices to perform 15 percent of the work hours that workers in apprenticeable occupations perform under the qualified contract; and 4) make good-faith efforts to encourage minority individuals, women, and service-disabled veterans to perform work under the contract or subcontract.

Authorizes owner to meet **contract awards requirements** through the terms of a community benefits agreement entered into between the prospective contractor and a local government, a school district, a local environmental, or habitat conservation organization of another entity that exists for the public benefit as identified by rule by PUC. Requires owner, at least 30 days before making any final payment to a contractor under a qualified contract, to determine the extent of the contractor's compliance with the requirements set forth in contract awards requirements. Requires an owner to attest or declare the extent to which the **responsible labor standards** requirements were met during all periods of construction and shall provide the attestation or declaration to: the Bureau of Labor and Industries and, if a direct subsidy was secured for the development of the renewable energy generation facility, the state or local government entity that provided the direct subsidy. Establishes that contract awards requirements do not apply to a qualified contract if the owner determines that compliance with the requirements would, with respect to the qualified contract: cause unreasonable expense or delay or limit the pool of bidders to fewer than three.

BACKGROUND:

The Oregon Renewable Portfolio Standard (RPS) was enacted in 2007 through Senate Bill 838. The bill directed Oregon utilities to meet a percentage of their retail electricity needs with qualified renewable resources. For Oregon's three largest utilities (Portland General Electric, PacifiCorp, and the Eugene Water and Electric Board), the standard started at 5 percent in 2011, increased to 15 percent in 2015, 20 percent in 2020, and 25 percent in 2025. Other electric utilities in the state, depending on size, had different standards to meet by in 2025. The Public Utility Commission (PUC) regulates customer rates and services of the state's investor-owned electric, natural gas and telephone utilities, as well as certain water companies.

Senate Bill 1547 (2016) revised the large utility RPS to require that at least 27 percent of electricity sold in years 2025–2029 be qualifying electricity generated from a renewable energy source; at least 35 percent of electricity sold in years 2030–2034 be qualifying electricity generated from a renewable energy source; at least 45 percent of electricity sold in years 2035–2039 be qualifying electricity generated from a renewable energy source; and at least 50 percent of electricity sold in 2040 and beyond be qualifying electricity generated from a renewable energy source. The bill revised how renewable energy certificates may be banked and used by electric companies. Senate Bill 1547 allowed as qualifying electricity the use of electricity from a generating facility using biomass or direct combustion of municipal solid waste.

House Bill 3180 would modify and add laws related to utilities, including:

This Summary has not been adopted or officially endorsed by action of the committee.

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