

HOUSE AMENDMENTS TO HOUSE BILL 3221

By COMMITTEE ON WATER

April 9

1 On page 1 of the printed bill, delete lines 21 through 30 and delete pages 2 through 7 and insert:
2 **“SECTION 1. Sections 2 to 6 of this 2021 Act are added to and made a part of ORS**
3 **chapter 757.**

4 **“SECTION 2. As used in sections 2 to 6 of this 2021 Act:**

5 **“(1) ‘Community energy resilience’ means the ability of a community to continue to**
6 **provide electricity in order to power services from critical sectors both during and after a**
7 **magnitude 9.0 Cascadia subduction zone seismic event or other extreme natural event such**
8 **as a wildfire, flood or heat wave.**

9 **“(2) ‘Critical sectors’ includes:**

10 **“(a) Emergency operations centers, hospitals, police stations, fire stations and emer-**
11 **gency shelters; and**

12 **“(b) Buildings that are necessary for the provision of basic services to communities as**
13 **they begin to restore functions and return to normal life after an extreme natural event,**
14 **such as schools, housing, certain retail stores and banks.**

15 **“(3) ‘Large renewable energy project’ means a new or existing renewable energy project**
16 **with a generating capacity of more than 20 megawatts.**

17 **“(4) ‘Local government’ has the meaning given that term in ORS 174.116.**

18 **“(5) ‘Local service district’ means an irrigation district organized under ORS chapter 545,**
19 **a drainage district organized under ORS chapter 547, a water improvement district organized**
20 **under ORS chapter 552 or a water control district organized under ORS chapter 553.**

21 **“(6) ‘Oregon Renewable Options Program’ means a program offered by a qualified utility**
22 **as authorized under section 3 (1) of this 2021 Act.**

23 **“(7) ‘ORO Community Program’ means a program created under an Oregon Renewable**
24 **Options Program pursuant to section 3 (2) of this 2021 Act and approved by the Public Utility**
25 **Commission under section 3 (5) of this 2021 Act, under which renewable energy is supplied**
26 **to participating communities through renewable energy projects or unbundled renewable**
27 **energy certificates.**

28 **“(8) ‘Participating community’ means a local government, local service district or tribal**
29 **government whose residents or businesses are served by a qualified utility.**

30 **“(9) ‘Participating customer’ means a person that:**

31 **“(a) Is a retail electricity consumer of a qualified utility located within the boundary of**
32 **a local government, local service district or tribal government in which an ORO Community**
33 **Program has been approved by the commission; and**

34 **“(b) Has not exercised the right to decline to participate in the ORO Community Program**
35 **pursuant to section 4 of this 2021 Act.**

1 “(10) ‘Public Purpose Fund Administrator’ has the meaning given that term in ORS
2 470.050.

3 “(11)(a) ‘Qualified utility’ means an entity engaged in the business of distributing elec-
4 tricity to retail electricity consumers in this state.

5 “(b) ‘Qualified utility’ does not mean:

6 “(A) A consumer-owned utility as defined in ORS 757.600; or

7 “(B) An electricity service supplier as defined in ORS 757.600.

8 “(12) ‘Renewable energy’ means:

9 “(a) Electricity generated from resource types described in ORS 469A.025; or

10 “(b) Electricity represented through unbundled renewable energy certificates.

11 “(13) ‘Renewable energy project’ means a small renewable energy project or a large
12 renewable energy project.

13 “(14) ‘Retail electricity consumer’ has the meaning given that term in ORS 757.600.

14 “(15) ‘Small renewable energy project’ means a new or existing renewable energy project
15 with a generating capacity of 20 megawatts or less.

16 “(16) ‘Tribal government’ means the governing body of a federally recognized Indian tribe
17 in Oregon or the governing body of an Oregon Indian tribe as defined in ORS 294.805.

18 “(17) ‘Unbundled renewable energy certificate’ means:

19 “(a) An unbundled renewable energy certificate as defined in ORS 469A.005; or

20 “(b) A renewable energy certificate that is sold to a retail electricity consumer without
21 selling to the retail electricity consumer, on a non-cost of service basis, the electricity as-
22 sociated with the renewable energy certificate.

23 “SECTION 3. (1) Notwithstanding ORS 757.601 (3), the Public Utility Commission may
24 authorize a qualified utility to provide, through an Oregon Renewable Options Program, local
25 governments, local service districts and tribal governments with opportunities to have a
26 greater choice over the renewable energy that powers and increases the resilience of their
27 communities.

28 “(2) An Oregon Renewable Options Program authorized by the commission under this
29 section must allow for:

30 “(a) One or more participating communities to coordinate with one or more qualified
31 utilities that provide electricity in the service territory within which a participating com-
32 munity is located to create and submit to the commission a proposal for an ORO Community
33 Program under which renewable energy will be supplied to the participating communities
34 through renewable energy projects or unbundled renewable energy certificates;

35 “(b) The Public Purpose Fund Administrator at the request of the participating commu-
36 nities and on a fee-for-service or other basis, to recover costs as directed by the commission
37 and provide facilitation services, resilience planning or other technical assistance in the de-
38 velopment of a proposal;

39 “(c) All retail electricity consumers served within the boundary of a participating com-
40 munity with an electricity demand at any point of delivery that is less than 30 kilowatts to,
41 upon commission approval, be automatically placed on the rate schedule for the ORO Com-
42 munity Program by the qualified utility but to have an opportunity to decline to be served
43 by the ORO Community Program; and

44 “(d) Any retail electricity consumer served within the boundary of a participating com-
45 munity with an electricity demand at any point of delivery that is 30 kilowatts or more to

1 opt in to participate in the ORO Community Program, if the participating community pe-
2 titions the commission and the commission has approved participation by the retail elec-
3 tricity consumer in the program.

4 “(3)(a) In developing a proposal to be submitted to the commission under subsection (2)
5 of this section, each participating community engaged in the development must utilize a
6 public engagement process that includes explicit solicitation of feedback from, and that ad-
7 dresses the needs of, participating customers, especially participating customers that are
8 disadvantaged, climate vulnerable or energy burdened.

9 “(b) A proposal must:

10 “(A) Subject to subsection (4) of this section, specify the generating capacity or elec-
11 tricity generation requested to be supplied under the proposal by small renewable energy
12 projects, large renewable energy projects or unbundled renewable energy certificates;

13 “(B) Specify the date by which the renewable energy must first begin to be supplied;

14 “(C) Subject to subsection (4) of this section, specify the combination of small renewable
15 energy projects, large renewable energy projects or unbundled renewable energy certificates
16 desired for the ORO Community Program;

17 “(D) Include a report on how each participating community incorporated the feedback
18 solicited under paragraph (a) of this subsection in the proposal; and

19 “(E) Include a record of the final vote of the governing body of each participating com-
20 munity on the decision to submit the proposal.

21 “(4)(a) Small renewable energy projects included in a proposal developed under subsection
22 (3) of this section must demonstrate current or future potential to provide community en-
23 ergy resilience.

24 “(b) Except as provided in paragraph (d) of this subsection:

25 “(A) Small renewable energy projects included in a proposal developed under subsection
26 (3) of this section must cumulatively account for:

27 “(i) At least five megawatts of generating capacity; or

28 “(ii) Five percent of the generating capacity or electricity generation specified under
29 subsection (3)(b)(A) of this section; and

30 “(B) The generating capacity or electricity generation of all large renewable energy
31 projects or unbundled renewable energy certificates included in a proposal developed under
32 subsection (3) of this section may not cumulatively account for more than 95 percent of the
33 generating capacity or electricity generation specified under subsection (3)(b)(A) of this sec-
34 tion.

35 “(c) The commission, at the request of a participating community, may waive the re-
36 quirements of paragraph (b) of this subsection.

37 “(d) If a qualified utility participating in a proposal developed under subsection (3) of this
38 section is an electric company as defined in ORS 757.600 providing electricity services to
39 fewer than 25,000 consumers in this state, the maximum cumulative generating capacity of
40 all renewable energy projects included in the proposal may not exceed five megawatts unless
41 the commission, at the request of the qualified utility, approves a greater amount.

42 “(5) Proposals for ORO Community Programs submitted to the commission under sub-
43 section (2) of this section must be reviewed for approval by the commission. In reviewing and
44 approving a proposal, the commission shall consider the requirements of subsections (3) and
45 (4) of this section. Tariff schedules and rates allowed pursuant to this subsection must allow

1 a return of and a return on an investment made by a qualified utility and shall be recovered
2 in a manner specified by the commission.

3 **“SECTION 4. (1) A qualified utility implementing an ORO Community Program shall:**

4 **“(a) Include in the billing statements provided to participating customers information on**
5 **the costs of participation in the ORO Community Program; and**

6 **“(b) Provide written notice to participating customers of any change in rate for partic-**
7 **ipation in the ORO Community Program.**

8 **“(2)(a) Subject to the terms of the applicable Oregon Renewable Options Program, a**
9 **qualified utility may automatically enroll in an ORO Community Program all retail electricity**
10 **consumers served within the boundary of a participating community that:**

11 **“(A) Have an electricity demand at any point of delivery that is less than 30 kilowatts;**
12 **or**

13 **“(B) Have an electricity demand at any point of delivery that is 30 kilowatts or more and**
14 **that have opted to participate in the ORO Community Program.**

15 **“(b) The qualified utility shall provide retail electricity consumers that did not opt in to**
16 **the ORO Community Program an opportunity to decline being enrolled as a participating**
17 **customer. In the case of automatic enrollment of all retail electricity consumers described**
18 **in paragraph (a)(A) of this subsection, the qualified utility may not assess a fee or penalty**
19 **against a retail electricity consumer that declines to participate in the program within an**
20 **initial opt-out period as determined by the Public Utility Commission.**

21 **“(3) A retail electricity consumer that previously declined to participate in the ORO**
22 **Community Program under subsection (2) of this section may become a participating cus-**
23 **tommer as allowed by the commission by rule and by giving notice to the qualified utility in**
24 **the manner required by the commission.**

25 **“(4) A person shall be provided notice and an opportunity to decline participation in the**
26 **ORO Community Program if:**

27 **“(a) The person first begins receiving electricity service from the qualified utility within**
28 **the participating community served by an ORO Community Program after the date of im-**
29 **plementation of the program; or**

30 **“(b) The area in which the person is located was outside the participating community on**
31 **the date of implementation of the ORO Community Program, but after the implementation**
32 **date the area becomes annexed into the boundaries of the participating community.**

33 **“SECTION 5. (1)(a) Upon its own motion or at the request of a qualified utility, the Public**
34 **Utility Commission may open an investigation to determine whether a qualified utility’s**
35 **compliance with one or more of the requirements of an ORO Community Program is likely**
36 **to result in:**

37 **“(A) Conflicts with or compromises to the qualified utility’s obligation to comply with the**
38 **mandatory and enforceable reliability standards of the North American Electric Reliability**
39 **Corporation; or**

40 **“(B) Compromises to the integrity of the qualified utility’s electrical system.**

41 **“(b) A qualified utility making a request under this subsection must submit an applica-**
42 **tion to the commission that includes:**

43 **“(A) An explanation of the reliability or integrity issue and how a temporary exemption**
44 **from complying with one or more of the requirements of the ORO Community Program will**
45 **avoid the reliability or integrity issue; and**

1 “(B) A plan to achieve full compliance with the requirements of the ORO Community
2 Program.

3 “(2) In applying for a temporary exemption under this section, a qualified utility has the
4 burden of demonstrating that compliance with one or more of the requirements of the ORO
5 Community Program is likely to result in:

6 “(a) Conflicts with or compromises to the qualified utility’s obligation to comply with the
7 mandatory and enforceable reliability standards of the North American Electric Reliability
8 Corporation; or

9 “(b) Compromises to the integrity of the qualified utility’s electrical system.

10 “(3) If the commission determines under this section that compliance with one or more
11 of the requirements of the ORO Community Program is likely to result in the conflicts or
12 compromises described in subsection (2) of the section, the commission shall issue an order:

13 “(a) Notwithstanding the terms of the ORO Community Program, temporarily exempting
14 the qualified utility from one or more of the requirements of the program for an amount of
15 time sufficient to allow the qualified utility to achieve full compliance with the requirements
16 of the program;

17 “(b) Directing the qualified utility to file a progress report on achieving full compliance
18 with the requirements of the ORO Community Program within six months after issuing the
19 order, or within an amount of time determined to be reasonable by the commission; and

20 “(c) Directing the qualified utility to take specific actions to achieve full compliance with
21 the requirements of the ORO Community Program.

22 “(4) A qualified utility may request an extension of a temporary exemption granted under
23 this section.

24 “(5) This section does not permanently relieve a qualified utility of its obligation to
25 comply with the requirements of an ORO Community Program.

26 “SECTION 6. (1) The Public Utility Commission shall adopt rules necessary to carry out
27 the requirements of sections 2 to 6 of this 2021 Act.

28 “(2) The commission may, by rule, adopt:

29 “(a) Incentives to support successful coordination between participating communities and
30 qualified utilities in the creation of an ORO Community Program proposal under an Oregon
31 Renewable Options Program; or

32 “(b) Provisions for requiring a qualified utility to coordinate with a participating com-
33 munity in the creation of an ORO Community Program proposal under an Oregon Renewable
34 Options Program.

35 “(3) Rulemaking by the commission under this section shall be conducted pursuant to an
36 open public process that ensures meaningful participation by local governments, local service
37 districts and tribal governments.

38 “SECTION 7. (1) Sections 2 to 6 of this 2021 Act become operative on January 1, 2023.

39 “(2) The Public Utility Commission may adopt rules, issue orders or take any actions
40 before the operative date specified in subsection (1) of this section that are necessary to
41 enable the commission, on and after the operative date specified in subsection (1) of this
42 section, to carry out the provisions of sections 2 to 6 of this 2021 Act.

43 “SECTION 8. This 2021 Act takes effect on the 91st day after the date on which the 2021
44 regular session of the Eighty-first Legislative Assembly adjourns sine die.”.