

Requested by Representative HELM

**PROPOSED AMENDMENTS TO
HOUSE BILL 3221**

1 On page 1 of the printed bill, delete lines 21 through 30 and delete pages
2 2 through 7 and insert:

3 **“SECTION 1. Sections 2 to 6 of this 2021 Act are added to and made
4 a part of ORS chapter 757.**

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

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

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

12 **“(a) Emergency operations centers, hospitals, police stations, fire
13 stations and emergency shelters; and**

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

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

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

1 174.116.

2 “(5) ‘Local service district’ means an irrigation district organized
3 under ORS chapter 545, a drainage district organized under ORS
4 chapter 547, a water improvement district organized under ORS chap-
5 ter 552 or a water control district organized under ORS chapter 553.

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

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

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

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

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

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

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

26 “(11)(a) ‘Qualified utility’ means an entity engaged in the business
27 of distributing electricity to retail electricity consumers in this state.

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

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

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

1 **“(12) ‘Renewable energy’ means:**

2 **“(a) Electricity generated from resource types described in ORS**
3 **469A.025; or**

4 **“(b) Electricity represented through unbundled renewable energy**
5 **certificates.**

6 **“(13) ‘Renewable energy project’ means a small renewable energy**
7 **project or a large renewable energy project.**

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

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

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

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

17 **“(a) An unbundled renewable energy certificate as defined in ORS**
18 **469A.005; or**

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

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

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

1 “(a) One or more participating communities to coordinate with one
2 or more qualified utilities that provide electricity in the service terri-
3 tory within which a participating community is located to create and
4 submit to the commission a proposal for an ORO Community Program
5 under which renewable energy will be supplied to the participating
6 communities through renewable energy projects or unbundled
7 renewable energy certificates;

8 “(b) The Public Purpose Fund Administrator at the request of the
9 participating communities and on a fee-for-service or other basis, to
10 recover costs as directed by the commission and provide facilitation
11 services, resilience planning or other technical assistance in the de-
12 velopment of a proposal;

13 “(c) All retail electricity consumers served within the boundary of
14 a participating community with an electricity demand at any point of
15 delivery that is less than 30 kilowatts to, upon commission approval,
16 be automatically placed on the rate schedule for the ORO Community
17 Program by the qualified utility but to have an opportunity to decline
18 to be served by the ORO Community Program; and

19 “(d) Any retail electricity consumer served within the boundary of
20 a participating community with an electricity demand at any point of
21 delivery that is 30 kilowatts or more to opt in to participate in the
22 ORO Community Program, if the participating community petitions
23 the commission and the commission has approved participation by the
24 retail electricity consumer in the program.

25 “(3)(a) In developing a proposal to be submitted to the commission
26 under subsection (2) of this section, each participating community
27 engaged in the development must utilize a public engagement process
28 that includes explicit solicitation of feedback from, and that addresses
29 the needs of, participating customers, especially participating cus-
30 tomers that are disadvantaged, climate vulnerable or energy burdened.

1 **“(b) A proposal must:**

2 **“(A) Subject to subsection (4) of this section, specify the generating**
3 **capacity or electricity generation requested to be supplied under the**
4 **proposal by small renewable energy projects, large renewable energy**
5 **projects or unbundled renewable energy certificates;**

6 **“(B) Specify the date by which the renewable energy must first be-**
7 **gin to be supplied;**

8 **“(C) Subject to subsection (4) of this section, specify the combina-**
9 **tion of small renewable energy projects, large renewable energy**
10 **projects or unbundled renewable energy certificates desired for the**
11 **ORO Community Program;**

12 **“(D) Include a report on how each participating community incor-**
13 **porated the feedback solicited under paragraph (a) of this subsection**
14 **in the proposal; and**

15 **“(E) Include a record of the final vote of the governing body of each**
16 **participating community on the decision to submit the proposal.**

17 **“(4)(a) Small renewable energy projects included in a proposal de-**
18 **veloped under subsection (3) of this section must demonstrate current**
19 **or future potential to provide community energy resilience.**

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

21 **“(A) Small renewable energy projects included in a proposal devel-**
22 **oped under subsection (3) of this section must cumulatively account**
23 **for:**

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

25 **“(ii) Five percent of the generating capacity or electricity gener-**
26 **ation specified under subsection (3)(b)(A) of this section; and**

27 **“(B) The generating capacity or electricity generation of all large**
28 **renewable energy projects or unbundled renewable energy certificates**
29 **included in a proposal developed under subsection (3) of this section**
30 **may not cumulatively account for more than 95 percent of the gener-**

1 **ating capacity or electricity generation specified under subsection**
2 **(3)(b)(A) of this section.**

3 **“(c) The commission, at the request of a participating community,**
4 **may waive the requirements of paragraph (b) of this subsection.**

5 **“(d) If a qualified utility participating in a proposal developed under**
6 **subsection (3) of this section is an electric company as defined in ORS**
7 **757.600 providing electricity services to fewer than 25,000 consumers in**
8 **this state, the maximum cumulative generating capacity of all**
9 **renewable energy projects included in the proposal may not exceed five**
10 **megawatts unless the commission, at the request of the qualified**
11 **utility, approves a greater amount.**

12 **“(5) Proposals for ORO Community Programs submitted to the**
13 **commission under subsection (2) of this section must be reviewed for**
14 **approval by the commission. In reviewing and approving a proposal,**
15 **the commission shall consider the requirements of subsections (3) and**
16 **(4) of this section. Tariff schedules and rates allowed pursuant to this**
17 **subsection must allow a return of and a return on an investment made**
18 **by a qualified utility and shall be recovered in a manner specified by**
19 **the commission.**

20 **“SECTION 4. (1) A qualified utility implementing an ORO Commu-**
21 **nity Program shall:**

22 **“(a) Include in the billing statements provided to participating**
23 **customers information on the costs of participation in the ORO Com-**
24 **munity Program; and**

25 **“(b) Provide written notice to participating customers of any**
26 **change in rate for participation in the ORO Community Program.**

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

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

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

6 “(b) The qualified utility shall provide retail electricity consumers
7 that did not opt in to the ORO Community Program an opportunity
8 to decline being enrolled as a participating customer. In the case of
9 automatic enrollment of all retail electricity consumers described in
10 paragraph (a)(A) of this subsection, the qualified utility may not as-
11 sess a fee or penalty against a retail electricity consumer that declines
12 to participate in the program within an initial opt-out period as de-
13 termined by the Public Utility Commission.

14 “(3) A retail electricity consumer that previously declined to par-
15 ticipate in the ORO Community Program under subsection (2) of this
16 section may become a participating customer as allowed by the com-
17 mission by rule and by giving notice to the qualified utility in the
18 manner required by the commission.

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

21 “(a) The person first begins receiving electricity service from the
22 qualified utility within the participating community served by an ORO
23 Community Program after the date of implementation of the program;
24 or

25 “(b) The area in which the person is located was outside the par-
26 ticipating community on the date of implementation of the ORO
27 Community Program, but after the implementation date the area be-
28 comes annexed into the boundaries of the participating community.

29 “SECTION 5. (1)(a) Upon its own motion or at the request of a
30 qualified utility, the Public Utility Commission may open an investi-

1 gation to determine whether a qualified utility’s compliance with one
2 or more of the requirements of an ORO Community Program is likely
3 to result in:

4 “(A) Conflicts with or compromises to the qualified utility’s obli-
5 gation to comply with the mandatory and enforceable reliability stan-
6 dards of the North American Electric Reliability Corporation; or

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

9 “(b) A qualified utility making a request under this subsection must
10 submit an application to the commission that includes:

11 “(A) An explanation of the reliability or integrity issue and how a
12 temporary exemption from complying with one or more of the re-
13 quirements of the ORO Community Program will avoid the reliability
14 or integrity issue; and

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

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

21 “(a) Conflicts with or compromises to the qualified utility’s obli-
22 gation to comply with the mandatory and enforceable reliability stan-
23 dards of the North American Electric Reliability Corporation; or

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

26 “(3) If the commission determines under this section that compli-
27 ance with one or more of the requirements of the ORO Community
28 Program is likely to result in the conflicts or compromises described
29 in subsection (2) of the section, the commission shall issue an order:

30 “(a) Notwithstanding the terms of the ORO Community Program,

1 temporarily exempting the qualified utility from one or more of the
2 requirements of the program for an amount of time sufficient to allow
3 the qualified utility to achieve full compliance with the requirements
4 of the program;

5 “(b) Directing the qualified utility to file a progress report on
6 achieving full compliance with the requirements of the ORO Commu-
7 nity Program within six months after issuing the order, or within an
8 amount of time determined to be reasonable by the commission; and

9 “(c) Directing the qualified utility to take specific actions to achieve
10 full compliance with the requirements of the ORO Community Pro-
11 gram.

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

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

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

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

21 “(a) Incentives to support successful coordination between partic-
22 ipating communities and qualified utilities in the creation of an ORO
23 Community Program proposal under an Oregon Renewable Options
24 Program; or

25 “(b) Provisions for requiring a qualified utility to coordinate with
26 a participating community in the creation of an ORO Community
27 Program proposal under an Oregon Renewable Options Program.

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

1 **governments.**

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

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

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

12
