HB 2021-24
(LC 3683)
4/9/21 (DJ/cpa/ps)

Requested by Representative SMITH DB

PROPOSED AMENDMENTS TO
HOUSE BILL 2021

In line 2 of the printed bill, after the semicolon delete the rest of the line and insert "creating new provisions; and amending ORS 469A.005, 469A.052, 469A.060 and 469A.210.".

Delete lines 4 through 11 and insert:

"**FLOATING OFFSHORE WIND ENERGY**

"SECTION 1. (1) The Legislative Assembly finds that:

"(a) A federal leasing process led by the Bureau of Ocean Energy Management is underway for the development of floating offshore wind energy within the federal waters off the Oregon and California coasts;

"(b) A planning scenario for developing three gigawatts of floating offshore wind energy capacity within the federal waters off the Oregon coast by 2030 would trigger immediate economic benefits to this state, including economic benefits related to planning activities at the local, regional and state levels; and

"(c) Proactive planning for floating offshore wind energy with effective engagement from Oregon's fishing communities, ports, conservation interests, manufacturing industry, maritime industry, disaster recovery planning stakeholders, workforce development

stakeholders, electricity ratepayers and tribes will maximize the benefits to this state related to floating offshore wind energy, while minimizing the conflicts between floating offshore wind energy, the ocean ecosystem and ocean users.

"(2) In furtherance of the findings set forth in subsection (1) of this section, the Legislative Assembly declares that it is the goal of this state to plan for and pursue the development of three gigawatts of commercial scale floating offshore wind energy projects within the federal waters off the Oregon coast by 2030. It is further the goal of this state that:

"(a) At least 500 megawatts of the floating offshore wind energy capacity described in this section be dedicated to powering an associated renewable hydrogen production facility; and

"(b) The planning described in this subsection be conducted in a manner that will maximize benefits to this state while minimizing conflicts between floating offshore wind energy, the ocean ecosystem and ocean users.

"SECTION 2. (1) As used in this section, 'electric company' has the meaning given that term in ORS 757.600.

"(2) The Legislative Assembly finds and declares that floating offshore wind energy, as a variable baseload power generation technology, should play a key role in this state's efforts to decarbonize the energy supply.

"(3) Consistent with the finding set forth in subsection (2) of this section and for the purpose of ensuring prudent investments by an electric company in floating offshore wind energy before the electric company acquires other baseload generating resources, and in order to foster the development of floating offshore wind energy in federal waters off the Oregon coast, each electric company in this state shall, as directed by the Public Utility Commission by rule or order, plan for

and pursue the acquisition of cost-effective energy or energy and capacity that is delivered directly or indirectly from:

"(a) Floating offshore wind energy facilities; or

"(b) Renewable hydrogen production facilities that are powered by floating offshore wind energy.

"SECTION 3. (1) The State Department of Fish and Wildlife, in coordination with the State Department of Energy and the Ocean Policy Advisory Council, shall develop a program for assisting members of the commercial and sport ocean fishing industries with avoiding conflicts with floating offshore wind energy facilities in federal waters off the Oregon coast and with related transmission and other facilities that transverse Oregon's territorial sea.

"(2)(a) In addition to the program required under subsection (1) of this section, the State Department of Fish and Wildlife, in coordination with the State Department of Energy, shall establish and implement an offshore energy development fisheries loss compensation program, using moneys in the Offshore Energy Development Fisheries Loss Compensation Fund established under section 4 of this 2021 Act.

"(b) The purpose of the program required by this subsection shall be to provide, subject to available funding in the Offshore Energy Development Fisheries Loss Compensation Fund established under section 4 of this 2021 Act, compensation to persons who hold licenses issued pursuant to the commercial fishing laws for the loss of fisheries catch due to conflicts with offshore energy development in federal waters off the Oregon coast and conflicts with related transmission and other facilities that transverse Oregon's territorial sea.

"(c) The State Department of Fish and Wildlife shall establish criteria for persons to qualify for compensation under the program and procedures for persons to apply for compensation. The criteria and procedures must require a person to provide evidence of the loss of

fisheries catch due to offshore energy development. Evidence of the loss must include a finding by the department or the department's designated agent that offshore energy development, or related transmission and other facilities, was the probable cause of the loss of fisheries catch for which the compensation is claimed.

"(3) The State Fish and Wildlife Commission shall adopt rules as necessary to implement the provisions of this section.

"SECTION 4. (1) The Offshore Energy Development Fisheries Loss Compensation Fund is established, separate and distinct from the General Fund. Interest earned on the moneys in the Offshore Energy Development Fisheries Loss Compensation Fund shall be credited to the fund. All moneys in the fund are continuously appropriated to the State Department of Fish and Wildlife for the purpose of establishing and implementing the programs described in section 3 of this 2021 Act.

"(2) The fund shall consist of moneys appropriated by the Legislative Assembly for the purposes of the fund and any gifts, grants, donations, endowments or bequests from any public or private source. The State Department of Fish and Wildlife may seek out and receive any gifts, grants, donations, endowments or bequests for the purpose of establishing and implementing the programs described in section 3 of this 2021 Act. The department shall deposit such moneys in the fund.

"POLICY POSITION ON OCEAN RENEWABLE ENERGY PLANNING

"SECTION 5. The Legislative Assembly finds and declares that, consistent with applicable federal law, it shall be the policy position of the State of Oregon that:

"(1) Any federal planning or permitting process for offshore energy research and development in federal waters off the Oregon coast and

for any related transmission and other facilities, particularly those that transverse Oregon's territorial sea, shall adequately consider the prompt decommissioning of any offshore facility after permanent cessation of use of the facility; and

"(2) Adequate consideration as described in this section must include consideration of the removal or decommissioning of anchors, cables and any other equipment related to the facility in a manner that will serve to avoid future conflicts between the equipment and fishing operations conducted by persons who hold licenses issued pursuant to the commercial fishing laws.

"**RENEWABLE PORTFOLIO STANDARD**

(Acceleration for large utilities;
legacy carbon-free electricity treatment)

"SECTION 6. ORS 469A.005 is amended to read:

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

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

"(a) Already owns, controls or operates an electric light and power system for supplying electricity to the inhabitants of the city and for general municipal purposes;

"(b) Provides fair, just and reasonable compensation to the electric company whose service territory is acquired that:

"(A) Gives consideration for the service territory rights and the cost of the facility, plant or equipment acquired and for depreciation, fair market value, reproduction cost and any other relevant factor; and

"(B) Is based on the present value of the service territory rights and the

facility, plant and equipment acquired, including the value of poles, wires, transformers and similar and related appliances necessarily required to provide electric service; and

"(c) Pays any stranded costs obligation established pursuant to ORS 757.483.

"(2) 'Banked renewable energy certificate' means a bundled or unbundled renewable energy certificate that is not used by an electric utility or electricity service supplier to comply with a renewable portfolio standard in a calendar year, and that is carried forward for the purpose of compliance with a renewable portfolio standard in a subsequent year.

"(3) 'BPA electricity' means electricity provided by the Bonneville Power Administration, including electricity generated by the Federal Columbia River Power System hydroelectric projects and electricity acquired by the Bonneville Power Administration by contract.

"(4) 'Bundled renewable energy certificate' means a renewable energy certificate for qualifying electricity that is acquired:

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

"(b) By an electric utility by generation of the electricity for which the renewable energy certificate was issued.

"(5) 'Compliance year' means the calendar year for which the electric utility or electricity service supplier seeks to establish compliance with the renewable portfolio standard applicable to the electric utility or electricity service supplier in the compliance report submitted under ORS 469A.170.

"(6) 'Consumer-owned utility' means a municipal electric utility, a people's utility district organized under ORS chapter 261 that sells electricity or an electric cooperative organized under ORS chapter 62.

"(7) 'Distribution utility' has the meaning given that term in ORS 757.600.

"(8) 'Electric company' has the meaning given that term in ORS 757.600.

"(9) 'Electric utility' has the meaning given that term in ORS 757.600.

"(10) 'Electricity service supplier' has the meaning given that term in ORS 757.600.

"**(11)(a) 'Legacy carbon-free electricity' includes electricity, other than electricity described in ORS 469A.060 (2), that:**

"(A) Is generated by a hydroelectric facility or a nuclear facility that:

"(i) Became operational before the effective date of this 2021 Act; and

"(ii) Was being used to serve the load of an electric utility on or before the effective date of this 2021 Act; and

"(B) Does not otherwise constitute qualifying electricity.

"(b) 'Legacy carbon-free electricity' does not include the amount of electricity generated by a facility described in paragraph (a) of this subsection that is in excess of the amount of electricity generated by that facility that was historically used to serve the load of an electric utility, calculated based on the lesser of:

"(A) The three-year average amount of electricity generated by that facility and used to serve the load of a utility based on the three most recent years prior to the compliance year in which the electric utility seeks to establish compliance with the renewable portfolio standard; or

"(B) The three-year average amount of electricity generated by that facility and used to serve the load of a utility based on the three most recent years prior to the effective date of this 2021 Act.

"[*(11)*] **(12)** 'Qualifying electricity' means electricity described in ORS 469A.010.

"[*(12)*] **(13)** 'Renewable energy source' means a source of electricity described in ORS 469A.025 **(2)(g) or (7)**.

"[*(13)*] **(14)** 'Retail electricity consumer' means a retail electricity con-

sumer, as defined in ORS 757.600, that is located in Oregon.

"[*(14)*] **(15)** 'Unbundled renewable energy certificate' means a renewable energy certificate for qualifying electricity that is acquired by an electric utility or electricity service supplier by trade, purchase or other transfer without acquiring the electricity that is associated with the renewable energy certificate.

"**(16) 'Wind energy' includes floating offshore wind energy.**

"SECTION 7. ORS 469A.052 is amended to read:

"469A.052. (1) The large utility renewable portfolio standard imposes the following 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:

"(a) At least five percent of the electricity sold by the electric utility to retail electricity consumers in each of the calendar years 2011, 2012, 2013 and 2014 must be qualifying electricity;

"(b) At least 15 percent of the electricity sold by the electric utility to retail electricity consumers in each of the calendar years 2015, 2016, 2017, 2018 and 2019 must be qualifying electricity;

"(c) At least 20 percent of the electricity sold by the electric utility to retail electricity consumers in each of the calendar years [*2020, 2021, 2022, 2023 and 2024*] **2020 and 2021** must be qualifying electricity;

"[*(d) At least 25 percent of the electricity sold by a consumer-owned utility to retail electricity consumers in the calendar year 2025 and subsequent calendar years must be qualifying electricity;*]

"[*(e) At least 27 percent of the electricity sold by an electric company to retail electricity consumers in each of the calendar years 2025, 2026, 2027, 2028 and 2029 must be qualifying electricity;*]

"[*(f) At least 35 percent of the electricity sold by an electric company to retail electricity consumers in each of the calendar years 2030, 2031, 2032, 2033 and 2034 must be qualifying electricity;*]

"[*(g) At least 45 percent of the electricity sold by an electric company to retail electricity consumers in each of the calendar years 2035, 2036, 2037, 2038 and 2039 must be qualifying electricity; and*]

"[*(h) At least 50 percent of the electricity sold by an electric company to retail electricity consumers in the calendar year 2040 and subsequent calendar years must be qualifying electricity.*]

"**(d) At least 25 percent of the electricity sold by the electric utility to retail electricity consumers in the calendar year 2023 must be qualifying electricity; and**

"(e) In 2024 and in each following calendar year before 2045, the share of qualifying electricity sold by an electric utility to retail electricity consumers must increase by a constant amount such that, by 2045, at least 85 percent of electricity sold by the electric utility to retail electricity consumers is qualifying electricity.

"(2) If, on June 6, 2007, an 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, but in any three consecutive calendar years thereafter makes sales of electricity to retail electricity consumers in amounts that average three percent or more of all electricity sold to retail electricity consumers, the electric utility is subject to the renewable portfolio standard described in subsection (3) of this section. The electric utility becomes subject to the renewable portfolio standard described in subsection (3) of this section in the calendar year following the three-year period during which the electric utility makes sales of electricity to retail electricity consumers in amounts that average three percent or more of all electricity sold to retail electricity consumers.

"(3) An electric utility described in subsection (2) of this section must comply with the following renewable portfolio standard:

"(a) Beginning in the fourth calendar year after the calendar year in which the electric utility becomes subject to the renewable portfolio stand-

ard described in this subsection, at least five percent of the electricity sold by the electric utility to retail electricity consumers in a calendar year must be qualifying electricity;

"(b) Beginning in the 10th calendar year after the calendar year in which the electric utility becomes subject to the renewable portfolio standard described in this subsection, at least 15 percent of the electricity sold by the electric utility to retail electricity consumers in a calendar year must be qualifying electricity;

"(c) Beginning in the 15th calendar year after the calendar year in which the electric utility becomes subject to the renewable portfolio standard described in this subsection, at least 20 percent of the electricity sold by the electric utility to retail electricity consumers in a calendar year must be qualifying electricity; and

"(d) Beginning in the 20th calendar year after the calendar year in which the electric utility becomes subject to the renewable portfolio standard described in this subsection, at least 25 percent of the electricity sold by the electric utility to retail electricity consumers in a calendar year must be qualifying electricity.

"SECTION 8. ORS 469A.060 is amended to read:

"469A.060. (1) Electric utilities are not required to comply with the renewable portfolio standards described in ORS 469A.052 and 469A.055 to the extent that:

"(a) Compliance with the standard would require the electric utility to acquire electricity in excess of the electric utility's projected load requirements in any calendar year; and

"(b) Acquiring the additional electricity would require the electric utility to substitute qualifying electricity for electricity derived from an energy source other than coal, natural gas or petroleum.

"(2)(a) Electric utilities are not required to comply with a renewable portfolio standard to the extent that compliance would require the electric

utility to substitute qualifying electricity for electricity available to the electric utility under contracts for electricity from dams that are owned by Washington public utility districts and that are located between the Grand Coulee Dam and the Columbia River's junction with the Snake River. The provisions of this subsection apply only to contracts entered into before June 6, 2007, and to renewal or replacement contracts for contracts entered into before June 6, 2007.

"(b) If a contract described in paragraph (a) of this subsection expires and is not renewed or replaced, the electric utility must comply, in the calendar year following the expiration of the contract, with the renewable portfolio standard applicable to the electric utility.

"**(3)(a) Electric utilities are not required to comply with a renewable portfolio standard to the extent that compliance would require the electric utility to substitute qualifying electricity for legacy carbon-free electricity that is available to the electric utility by ownership or contract. The provisions of this subsection applicable to contracts apply only to contracts entered into before the effective date of this 2021 Act and to renewal or replacement contracts for contracts entered into before the effective date of this 2021 Act.**

"(b) If a contract described in paragraph (a) of this subsection expires and is not renewed or replaced, or if a legacy carbon-free electricity generating facility is retired or removed from service to retail electricity consumers, beginning in the calendar year following the expiration, retirement or removal, the electric utility's obligation to comply with the renewable portfolio standard applicable to the electric utility may no longer be reduced by the amount of legacy carbon-free electricity that was available to the electric utility prior to the expiration, retirement or removal.

"[*(3)*] **(4)** A consumer-owned utility is not required to comply with a renewable portfolio standard to the extent that compliance would require the

consumer-owned utility to reduce the consumer-owned utility's purchases of the lowest priced electricity from the Bonneville Power Administration pursuant to section 5 of the Pacific Northwest Electric Power Planning and Conservation Act of 1980, P.L. 96-501, as in effect on June 6, 2007. The exemption provided by this subsection applies only to firm commitments for BPA electricity that the Bonneville Power Administration has assured will be available to a consumer-owned utility to meet agreed portions of the consumer-owned utility's load requirements for a defined period of time.

"**(Direct energy resiliency or environmental benefits)**

"SECTION 9. Section 10 of this 2021 Act is added to and made a part of ORS 469A.005 to 469A.210.

"SECTION 10. (1) As used in this section, 'renewable energy certificates' means bundled renewable energy certificates and unbundled renewable energy certificates.

"(2)(a) The Legislative Assembly declares that the State of Oregon has a substantial state interest in:

"(A) Creating a more resilient supply of electricity used to serve retail electricity consumers; and

"(B) Ensuring that efforts to reduce the greenhouse gas emissions attributable to this state provide direct environmental benefits in this state.

"(b) The Legislative Assembly further finds and declares that:

"(A) Locating low-emissions and no-emissions electricity generating and storage facilities close to retail electricity consumers served with the electricity generated or stored by those facilities:

"(i) Increases resilience without causing the harmful side effects of emissions emitted from electricity generating facilities;

"(ii) Reduces the costs and delays associated with constructing ad-

ditional transmission capacity to connect remote electricity generating and storage facilities; and

"(iii) Reduces the wildfire-related resiliency risks to the electricity grid that increase with the remoteness of electricity generating and storage facilities; and

"(B) Replacing electricity generating facilities that utilize petroleum, natural gas or coal as an energy source with electricity generating and storage facilities that utilize renewable energy sources can result in the reduction or avoidance of emissions of air contaminants other than greenhouse gases and can provide particular benefits to historically disadvantaged communities that have been traditionally and disproportionately burdened with the health, financial and other adverse impacts associated with air contaminants other than greenhouse gases emitted from electricity generating facilities and other waste products from power generation.

"(3) In pursuit of the substantial state interests set forth in subsection (2)(a) of this section and in addition to the requirements of ORS 469A.135, 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, the following percentages in the following years of the renewable energy certificates that were issued for electricity generated by a facility constructed on or after the effective date of this 2021 Act must be for electricity generated by a facility that provides direct energy resiliency or environmental benefits in this state:

"(a) 25 percent by 2023; and

"(b) 70 percent by 2045.

"(4) For the purposes of this section, an electricity generating or storage facility provides direct energy resiliency or environmental benefits in this state if the facility:

"(a) Provides direct local resiliency benefits to retail electricity consumers through one or more of the following:

"(A) Increased reliability in parts of this state that typically experience more frequent or longer service disruptions or that are more likely to be impacted by a catastrophic event;

"(B) Greater penetration of electricity generating and storage resources in remote communities;

"(C) Reduced exposure to the costs of service disruptions;

"(D) Modernization to the electrical grid in this state;

"(E) Reduced reliance on long-distance transmission;

"(F) Investment in communities and households in this state that are least able to afford technologies that improve the reliability of electricity service; or

"(G) Other local resiliency augmenting benefits for retail electricity consumers as may be identified by rule by the State Department of Energy, in consultation with the Public Utility Commission;

"(b) Contributes to a reduction in or avoidance of emissions of any air contaminant or water contaminant in this state other than a greenhouse gas; or

"(c) Contributes to an improvement in the health of natural and working lands in this state.

"(5) There is a rebuttable presumption that an electricity generating or storage facility provides direct energy resiliency or environmental benefits in this state for purposes of this section if the facility:

"(a) Is directly interconnected in this state to the electrical grid of an electric utility serving retail electricity consumers;

"(b) Is directly interconnected to the Bonneville Power Administration contiguous transmission grid serving this state;

"(c) Is used to comply with the requirements of ORS 469A.210;

"(d) Is a community solar project from which electricity is procured

pursuant to the program adopted under ORS 757.386;

"(e) Is a solar energy resource connected behind the meter of a retail electricity consumer that includes battery storage capable of providing temporary electric power in the event of a power outage; or

"(f) Relies on transmission facilities to transmit electricity for no more than 50 miles to reach the contiguous border of this state from an adjoining state in order to serve retail electricity consumers.

"SECTION 11. (1) The Public Utility Commission may not cause delay, due to the pendency of any rulemaking or other proceeding necessary to implement one or more provisions of section 10 of this 2021 Act, to any procurement or request for proposals that will result in the procurement by an electric utility of electricity from a facility that meets the statutory criteria set forth is section 10 (5) of this 2021 Act.

"(2) The enactment of section 10 of this 2021 Act is not intended to modify, delay or alter the timeline for any procurement or request for proposals initiated on, before or after the effective date of this 2021 Act for which rulemaking is not necessary to determine whether the procurement or request for proposals will count toward compliance by an electric utility with section 10 of this 2021 Act.

"**COMMUNITY-BASED RENEWABLE ENERGY**

"SECTION 12. ORS 469A.210 is added to and made a part of ORS chapter 757.

"SECTION 13. ORS 469A.210 is amended to read:

"469A.210. **(1) As used in this section:**

"(a) 'Electric company' has the meaning given that term in ORS 757.600.

"(b) 'Retail electricity consumer' has the meaning given that term

in ORS 757.600.

"[*(1)*] **(2)** The Legislative Assembly finds that community-based renewable energy projects, including but not limited to marine renewable energy resources that are either developed in accordance with the Territorial Sea Plan adopted pursuant to ORS 196.471 or located on structures adjacent to the coastal shorelands, are an essential element of this state's energy future.

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

"**(3)(a) For purposes related to the findings in subsection (2) of this section, by the following years the following percentages of electricity sold in this state by each electric company that makes sales of electricity to 25,000 or more retail electricity consumers in this state must be composed of electricity generated by one or more of the sources described in paragraph (b) of this subsection:**

"(A) By 2025, five percent; and

"(B) By 2045, 15 percent.

"(b) An electric company may comply with paragraph (a) of this subsection through sales of electricity composed of electricity generated by:

"[*(a)*] **(A)** Small-scale renewable energy projects with a generating capacity of 20 megawatts or less**, or that are interconnected with the transmission system owned or managed by the electric company at a voltage of 115 kilovolts or less, and** that generate electricity utilizing a type of energy described in ORS 469A.025; [*or*]

"[*(b)*] **(B)** Facilities that generate electricity using biomass that also generate thermal energy for a secondary purpose[*.*]**;**

"(C) Small modular reactors as defined in section 16 of this 2021 Act;

or

"(D) Small power production facilities as defined in ORS 758.505 that generate electricity utilizing a type of energy listed in ORS 469A.025 and that:

"(i) Are located, with the consent of the relevant tribal government as defined in ORS 181A.680, within the boundaries of an Indian reservation or land held in trust by the United States for the benefit of a federally recognized Oregon Indian tribe; or

"(ii) Have executed a community benefits agreement with a local government as defined in ORS 174.116, a school district as defined in ORS 332.002, a local environmental or habitat conservation organization or another entity that exists for the public benefit as identified by rule by the Public Utility Commission.

"(4)(a) Out of the facilities described in subsection (3) of this section that generate electricity used to meet the requirements of subsection (3) of this section, at least 25 percent must be:

"(A) Located in the electric company's service territory;

"(B) Directly interconnected with the transmission system owned or managed by the electric company; or

"(C) If not directly interconnected with the transmission system owned or managed by the electric company, designated as a network resource.

"(b) An electric company must cooperate with the efforts of a facility described in subsection (2) of this section to be designated as a network resource.

"[*(3)*] **(5)** Regardless of the facility's nameplate capacity, any single facility described in subsection [*(2)(b)*] **(3)(b)(B)** of this section may be used to comply with the requirement specified in subsection [*(2)*] **(3)** of this section for up to 20 megawatts of capacity.

"SECTION 14. (1) The Public Utility Commission may not cause

delay, due to the pendency of any rulemaking or other proceeding necessary to implement one or more provisions of ORS 469A.210, to any procurement or request for proposals that will result in the procurement by an electric company of electricity generated from a facility described in ORS 469A.210 (3)(b)(A), (B) or (D)(i).

"(2) The amendments to ORS 469A.210 by section 13 of this 2021 Act are not intended to modify, delay or alter the timeline for any procurement or request for proposals initiated before, on or after the effective date of this 2021 Act for which rulemaking is not necessary to determine whether the procurement or request for proposals will count toward compliance by an electric company with ORS 469A.210.

"**SMALL MODULAR REACTORS**

"**SECTION 15. Section 16 of this 2021 Act is added to and made a part of ORS 469.590 to 469.619.**

"**SECTION 16. (1) As used in this section:**

"(a) 'High-level radioactive waste' means spent nuclear fuel produced by a small modular reactor and radioactive by-products from the reprocessing of spent nuclear fuel produced by a small modular reactor.

"(b) 'Small modular reactor' means a nuclear fission reactor that has an electric output that does not exceed 300 megawatts.

"(2) Before issuing a site certificate for a small modular reactor, the Energy Facility Siting Council must:

"(a) Find that the site for the small modular reactor is located:

"(A) Within the area subject to the jurisdiction of a city that has adopted an ordinance allowing for the siting of small modular reactors pursuant to subsection (3) of this section; or

"(B) Within the unincorporated area subject to the jurisdiction of

a county that has adopted an ordinance allowing for the siting of small modular reactors pursuant to subsection (3) of this section;

"(b) Find that the emergency planning zone established by the United States Nuclear Regulatory Commission for the small modular reactor is located within the area, whether incorporated or unincorporated, subject to the jurisdiction of a county that has adopted an ordinance allowing for the siting of small modular reactors pursuant to subsection (3) of this section; and

"(c) Find that the proposed disposal of high-level radioactive waste by the small modular reactor comports with a process approved or adopted by the United States Nuclear Regulatory Commission for the disposal of high-level radioactive waste under the same or similar circumstances.

"(3)(a) The governing body of a city that adopts an ordinance allowing for the siting of small modular reactors within the area subject to the jurisdiction of the city must refer the ordinance to electors of the county as described in paragraph (c) of this subsection.

"(b) The governing body of a county that adopts an ordinance allowing for the siting of small modular reactors within the unincorporated area subject to the jurisdiction of the county must refer the ordinance to electors of the county as described in paragraph (c) of this subsection.

"(c) If the governing body of a city or county adopts an ordinance under this subsection, the governing body shall refer the measure of the ordinance to the electors of the city or county for approval at the next statewide general election.

"(4) ORS 469.595, 469.597, 469.599 and 469.601 do not apply to small modular reactors.

"CAPTIONS

"SECTION 17. The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.".