

Requested by Representative MARSH

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2021**

1 On page 1 of the printed A-engrossed bill, line 2, after “469A.205,” insert
2 “469A.210,”.

3 On page 2, delete lines 21 through 25 and insert:

4 “(2) ‘Community-based renewable energy’ means one or more renewable
5 energy systems that interconnect to utility distribution or transmission as-
6 sets and may be combined with microgrids, storage systems or demand re-
7 sponse measures, or energy-related infrastructure that promotes climate
8 resiliency or other such measures, and that.”.

9 In line 26, delete “(b)” and insert “(a)”.

10 In line 29, delete “(c)” and insert “(b)”.

11 On page 3, line 10, delete “and” and begin a new paragraph and insert:

12 “(3) That, under existing federal and state law, the state engages in
13 meaningful consultation with federally recognized Indian tribes. This in-
14 cludes consultation on the siting, permitting and construction of new energy
15 facilities as defined in ORS 469.300, and new projects subject to the policy
16 specified in 18 C.F.R. 2.1c, prior to such actions that are likely to adversely
17 impact designated sites of archeological significance as defined in ORS
18 358.905, or properties of traditional, cultural and religious importance under
19 the National Historical Preservation Act and the 36 C.F.R. 800 implementing
20 regulation.”.

21 In line 11, delete “(3)” and insert “(4)”.

1 In line 20, after “2040,” insert “and for every subsequent year,”.

2 In line 40, delete “short and long duration energy storage,”.

3 After line 41, insert:

4 “(c) Include a risk-based examination of resiliency opportunities that in-

5 cludes costs, consequences, outcomes and benefits based on reasonable and

6 prudent industry resiliency standards and guidelines established by the

7 Public Utility Commission;

8 “(d) Examine the costs and opportunities of offsetting energy generated

9 from fossil fuels with community-based renewable energy;”.

10 In line 42, delete “(c)” and insert “(e)”.

11 In line 45, delete “(d)” and insert “(f)”.

12 On page 4, line 4, delete “short and”.

13 In line 5, delete “long duration energy storage,”.

14 In line 7, delete “(4)(c)” and insert “(4)(e)”.

15 In line 18, delete “as a result” and insert “forecasted in”.

16 In line 19, delete the first “of”.

17 On page 6, line 17, delete “or resources”.

18 In line 21, delete “the development of”.

19 In line 27, after “transmission” insert “, constraints”.

20 In line 39, delete “, a community solar project as defined in ORS

21 757.386”.

22 In line 43, after “electricity” insert “, other than unspecified market

23 power,”.

24 On page 11, delete line 3 and insert:

25 **“SECTION 17. Sections 1 to 15 of this 2021 Act do not apply to an**

26 **electric company, as defined in ORS 757.600, that serves electricity to**

27 **25,000 or fewer retail electricity consumers, as defined in ORS 757.600,**

28 **located in this state.”.**

29 In line 24, delete “and”.

30 After line 24, insert:

1 “(L) The Public Utility Commission;
2 “(M) The Public Purpose Fund Administrator described in ORS 470.555;
3 and”.

4 In line 25, delete “(L)” and insert “(N)”.

5 After line 41, insert:

6 “(3) Members of the work group shall comply with requests from the State
7 Department of Energy for data related to the work group’s study and work
8 under this section.”.

9 In line 42, delete “(3)” and insert “(4)”.

10 On page 13, line 21, delete “but not limited to,”.

11 On page 17, line 14, delete “section 20 of this 2021 Act” and insert “ORS
12 757.603 (5)”.

13 Delete pages 23 through 26.

14 On page 27, delete lines 1 through 28 and insert:

15 **“SECTION 29. Definitions. As used in sections 29 to 32 of this 2021
16 Act:**

17 **“(1) ‘Community renewable energy project’ means one or more
18 renewable energy systems, storage systems, microgrids or energy-
19 related infrastructures that promote energy resilience, increase
20 renewable energy generation or renewable energy storage capacity and
21 provide a direct benefit to a particular community in the form of in-
22 creased community energy resilience, local jobs, economic develop-
23 ment or direct energy costs savings to families and small businesses.**

24 **“(2) ‘Community energy resilience’ means the ability of a specific
25 community to maintain the availability of energy needed to support
26 the provision of energy-dependent critical public services to the com-
27 munity following nonroutine disruptions of severe impact or duration
28 to the state’s broader energy systems.**

29 **“(3) ‘Community energy resilience project’ means a community
30 renewable energy project that includes utilizing one or more renewable**

1 energy systems to support the energy resilience of structures or facil-
2 ities that are essential to the public welfare.

3 “(4) ‘Consumer-owned utility’ means a municipal electricity utility,
4 a people’s utility district organized under ORS chapter 261 that sells
5 electricity or an electric cooperative organized under ORS chapter 62.

6 “(5) ‘Energy resilience’ means the ability of energy systems, from
7 production through delivery to end-users, to withstand and restore
8 energy delivery rapidly following nonroutine disruptions of severe im-
9 pact or duration.

10 “(6) ‘Planning costs’ means the costs related to planning paid by
11 an applicant described under section 30 of this 2021 Act.

12 “(7) ‘Project cost’ means the actual cost of the acquisition, con-
13 struction and installation of a renewable energy system incurred by
14 an applicant described under section 30 of this 2021 Act for the system,
15 before considering utility incentives.

16 “(8) ‘Public body’ means a public body as defined in ORS 174.109.

17 “(9) ‘Qualifying community’ means a community that qualifies as
18 an environmental justice community as defined in section 1 of this
19 2021 Act.

20 “(10) ‘Renewable energy system’ includes:

21 “(a) A system that uses biomass, solar, geothermal, hydroelectric,
22 wind, landfill gas, biogas or wave, tidal or ocean thermal energy
23 technology to produce energy.

24 “(b) One or more energy storage systems paired with an existing
25 or newly constructed system described in paragraph (a) of this sub-
26 section.

27 “(c) One or more vehicle charging stations paired with an existing
28 or newly constructed system described in paragraph (a) of this sub-
29 section.

30 “(d) Microgrid enabling technologies, including microgrid control-

1 lers and any other related technologies needed to electrically isolate
2 a community energy resilience project from the electric grid so that
3 the project is capable of operating independently from the electric
4 grid.

5 **“SECTION 30. Grants for community renewable energy projects;**
6 **application; standards; rules.** (1) The Community Renewable Invest-
7 ment Program is established for the purpose of:

8 **“(a) Offsetting the cost of planning and developing community**
9 **renewable energy projects;**

10 **“(b) Making community renewable energy projects economically**
11 **feasible for qualifying communities;**

12 **“(c) Promoting small-scale renewable energy projects; and**

13 **“(d) Providing direct benefits to communities across this state in**
14 **the form of increased community energy resilience, local jobs, eco-**
15 **nomi c development or direct energy cost savings to families and small**
16 **businesses.**

17 **“(2)(a) A federally recognized Oregon Indian tribe, public body or**
18 **consumer-owned utility may submit to the State Department of En-**
19 **ergy an application for grant moneys from the Community Renewable**
20 **Investment Fund established under section 33 of this 2021 Act for the**
21 **purpose of planning or developing a community renewable energy**
22 **project.**

23 **“(b) An applicant may partner with a federally recognized Oregon**
24 **Indian tribe, public body, nonprofit entity, private business with a**
25 **business site in this state or owner of rental property in this state, but**
26 **a grant for an approved application will only be awarded and released**
27 **to an applicant that is a federally recognized Oregon Indian tribe,**
28 **public body or consumer-owned utility. Any federally recognized**
29 **Oregon Indian tribe, public body, nonprofit entity, private business or**
30 **owner of rental property that partners with the applicant must be**

1 **listed in the application.**

2 **“(c) An application must be drafted in consultation with electric**
3 **utilities that have customers in the communities covered by a com-**
4 **munity renewable energy project that is in the application and re-**
5 **gional stakeholders for the purpose of ensuring feasibility.**

6 **“(3) An application for a grant for planning a community renewable**
7 **energy project must demonstrate that the planning:**

8 **“(a) Is for a project located in this state but outside a city with a**
9 **population of 500,000 or more;**

10 **“(b) Will be completed within six months of execution of the per-**
11 **formance agreement or a reasonable time frame if good cause to ex-**
12 **tend the deadline is demonstrated as determined by rule;**

13 **“(c) Will result in a proposal for developing a community renewable**
14 **energy project; and**

15 **“(d) Incorporates feedback from:**

16 **“(A) Members of qualifying communities served by the community**
17 **renewable energy project;**

18 **“(B) Businesses located in the communities served by the commu-**
19 **nity renewable energy project;**

20 **“(C) Electric utilities that have customers in the communities**
21 **served by the community renewable energy project; and**

22 **“(D) Other regional stakeholders.**

23 **“(4)(a) An application for a grant for developing a community**
24 **renewable energy project must be on a form prescribed by the depart-**
25 **ment and contain:**

26 **“(A) A detailed description of the project’s systems and the systems’**
27 **operation;**

28 **“(B) Information showing that the project’s systems will operate**
29 **as represented in the application and, if the project is for producing**
30 **electricity, remain in operation for at least five years or for at least**

1 a period of time established by the Director of the State Department
2 of Energy by rule;

3 “(C) The anticipated total project cost;

4 “(D) Information on the number and types of jobs directly con-
5 nected to the awarding of the grant that will be:

6 “(i) Created by the project; and

7 “(ii) Sustained throughout construction, installation and operation
8 of the project;

9 “(E) Information demonstrating that the project will comply with
10 applicable state and local laws and regulations and obtain required li-
11 censes and permits;

12 “(F) Information demonstrating that the project will be located in
13 and benefit a community in this state but outside a city with a popu-
14 lation of 500,000 or more; and

15 “(G) Any other information the director considers necessary to de-
16 termine whether the project is in compliance with sections 29 to 32 of
17 this 2021 Act and any applicable rules or standards adopted thereunder.

18 “(b) An application for developing a community renewable energy
19 project must demonstrate that the project:

20 “(A) Is located in this state but outside a city with a population of
21 500,000 or more;

22 “(B) Will begin construction within 12 months of execution of the
23 performance agreement and be completed within 36 months of exe-
24 cution of the performance agreement or a reasonable time frame if
25 good cause to extend the deadline is demonstrated as determined by
26 rule;

27 “(C) Results in increased community energy resilience, local jobs,
28 economic development or direct energy cost savings to families and
29 small businesses;

30 “(D) Complies with applicable state and local laws and regulations

1 and has the required licenses and permits;

2 “(E) Does not exceed 20 megawatts of nameplate capacity, if the
3 project is for generating renewable energy; and

4 “(F) Will operate for at least five years, if the project is for
5 producing electricity, or for at least a period of time established by the
6 director by rule.

7 “(5) Upon receipt of an application submitted under this section, the
8 department shall review and determine whether the applicant is eligi-
9 ble to receive a grant from the Community Renewable Investment
10 Program established under this section. The department may approve
11 an application if the department finds that:

12 “(a) The planning or development proposal meets the requirements
13 listed in subsection (3) or (4) of this section;

14 “(b) The proposal meets the standards described in subsection (10)
15 of this section;

16 “(c) The proposal meets any standards adopted by rule under sub-
17 section (11) of this section;

18 “(d) The proposal is technically feasible; and

19 “(e) Any federally recognized Oregon Indian tribe, public body, pri-
20 vate business or owner of rental property partnered with the applicant
21 is listed in the application.

22 “(6)(a) The department shall issue separate opportunity announce-
23 ments for each calendar interval that funding is available for the fol-
24 lowing categories:

25 “(A) Planning a community renewable energy project that qualifies
26 as a community energy resilience project;

27 “(B) Developing a community renewable energy project that quali-
28 fies as a community energy resilience project;

29 “(C) Planning a community renewable energy project that does not
30 qualify as a community energy resilience project; and

1 **“(D) Developing a community renewable energy project that does**
2 **not qualify as a community energy resilience project.**

3 **“(b) Upon receiving an application, the director shall determine**
4 **whether the application is for a community renewable energy project**
5 **that qualifies as a community energy resilience project based on the**
6 **definition of ‘community energy resilience project’ in section 29 of this**
7 **2021 Act and any applicable rules adopted under this section.**

8 **“(7)(a) The department shall allocate, out of the initial moneys ap-**
9 **propriated for the Community Renewable Investment Program under**
10 **section 34 of this 2021 Act:**

11 **“(A) 50 percent or more for grants to be awarded for planning or**
12 **developing community renewable energy projects that qualify as com-**
13 **munity energy resilience projects.**

14 **“(B) 50 percent or more for grants to be awarded for planning or**
15 **developing community renewable energy projects that primarily serve**
16 **one or more qualifying communities.**

17 **“(b) The department shall allocate, out of any subsequent and ad-**
18 **ditional moneys appropriated to the Community Renewable Invest-**
19 **ment Program, percentage amounts for grants in a manner consistent**
20 **with paragraph (a) of this subsection.**

21 **“(c) After two years of issuing announcements of available funding**
22 **opportunities from the initial moneys appropriated to the Community**
23 **Renewable Investment Program and after consultation with the Advi-**
24 **sory Committee on Community Renewable Investment described in**
25 **section 32 of this 2021 Act, the department may, by rule, reallocate the**
26 **percentage of available funds across project categories.**

27 **“(8) The department shall review and competitively score applica-**
28 **tions separately for each funding opportunity announcement.**

29 **“(9) If the department approves an application under this section,**
30 **the department and the applicant may enter into a performance**

1 agreement that meets the requirements set forth in section 31 of this
2 2021 Act.

3 “(10) In approving applications and awarding grant moneys, the
4 department shall prioritize planning and development proposals that:

5 “(a) Include community energy resilience projects.

6 “(b) Demonstrate significant prior investments in energy efficiency
7 measures at the project location or will result in aggregate improve-
8 ments to demand response capabilities.

9 “(c) Are for projects located in qualifying communities across the
10 state.

11 “(d) When applicable, are for projects constructed in part or in
12 whole by disadvantaged business enterprises, emerging small busi-
13 nesses or businesses that are owned by minorities, women or disabled
14 veterans.

15 “(e) Include inclusive hiring and promotion policies for workers
16 working on the projects.

17 “(f) Incorporate equity metrics developed in coordination with the
18 Environmental Justice Task Force established by ORS 182.538 for
19 evaluating the involvement of and leadership by people of low income,
20 Black, Indigenous or People of Color, members of tribal communities,
21 people with disabilities, youth, people from rural communities and
22 people from otherwise disadvantaged communities in the siting, plan-
23 ning, designing or evaluating of the proposed community renewable
24 energy projects.

25 “(g) Help the applicants achieve goals included in the applicants’
26 natural hazard mitigation plans as approved by the Federal Emergency
27 Management Agency.

28 “(11) The department shall adopt rules, in consultation with Busi-
29 ness Oregon, to carry out sections 29 to 32 of this 2021 Act. The rules
30 must:

1 “(a) Define the planning and project costs eligible to be covered by
2 a grant provided under section 31 (1) and (2) of this 2021 Act.

3 “(b) Adopt a methodology to identify qualifying communities and
4 assess the geographic diversity of the approved planning and develop-
5 ment projects compared with the other planning and development
6 project applications for which grants have been requested in each op-
7 portunity announcement.

8 “(c) Establish guidelines for significant, unforeseeable or uncon-
9 trollable delays that will constitute good cause for extending the time
10 lines agreed upon in performance agreements.

11 “(12) The department may adopt rules capping the amount of grant
12 funds that may be paid to individual consultants and contractors in
13 each round of funding opportunity announcements if the department
14 finds such limitations necessary to ensure broad distribution of funds
15 and opportunity for emerging small businesses as defined in ORS
16 200.005.

17 “SECTION 31. Performance agreements; requirements. (1)(a) A
18 performance agreement for planning a community renewable energy
19 project entered into between the State Department of Energy and an
20 applicant under section 30 (9) of this 2021 Act must provide, at a min-
21 imum:

22 “(A) A grant in an amount described in paragraph (b) of this sub-
23 section that covers up to 100 percent of the reasonable planning costs
24 including, but not limited to, costs associated with:

25 “(i) Consulting fees.

26 “(ii) Load analysis.

27 “(iii) Siting, excluding property acquisition.

28 “(iv) Ensuring code compliance.

29 “(v) Interconnection studies.

30 “(vi) Transmission studies.

1 “(vii) Other reasonable expenditures made in the community
2 renewable energy project planning process as determined by the de-
3 partment by rule.

4 “(B) A grant may not be used to cover any fixed costs the applicant
5 would incur in the applicant’s normal course of business such as ex-
6 isting staff salaries or overhead costs.

7 “(C) The department may recover grant moneys if a project fails to
8 abide by the performance agreement or if planning is not completed
9 within six months of execution of the performance agreement or a
10 reasonable time frame if good cause to extend the deadline is demon-
11 strated as determined by rule.

12 “(b) The department may establish differing limits on the maximum
13 amount of grants for planning community renewable energy projects
14 based on the scope and attributes of the planning applications not to
15 exceed an amount of \$100,000 per grant.

16 “(c) Notwithstanding paragraph (a) of this subsection, the depart-
17 ment may provide a grant that covers up to 100 percent of the rea-
18 sonable planning costs only if the application demonstrates the
19 planning proposal is for a community renewable energy project that:

20 “(A) If for producing energy:

21 “(i) Will make use of an adequately available renewable energy re-
22 source to produce the energy;

23 “(ii) Has a specific market for the energy; and

24 “(iii) Will reasonably and efficiently connect or transmit the energy
25 to the specific community identified in the application under section
26 30 (3) of this 2021 Act; or

27 “(B) If for increasing energy resilience:

28 “(i) Will increase the energy resilience of a specific structure or
29 facility or collection of structures or facilities essential to the public
30 welfare; and

1 “(ii) Will provide energy resilience benefits to the specific structure
2 or facility or to the collection of structures or facilities.

3 “(2) A performance agreement for developing a community
4 renewable energy project entered into between the State Department
5 of Energy and an applicant under section 30 (9) of this 2021 Act must
6 provide, at a minimum:

7 “(a) For a community renewable energy project that qualifies as a
8 community energy resilience project, a grant that covers up to 100
9 percent of the project cost not to exceed \$1 million. The department
10 shall reduce the grant amount, if the grant combined with other in-
11 centives and grants received by the applicant exceeds 100 percent of
12 the total costs associated with the project.

13 “(b) For a community renewable energy project that does not
14 qualify as a community energy resilience project, a grant that covers
15 up to 50 percent of the project cost not to exceed \$1 million. The de-
16 partment shall reduce the grant amount, if the grant combined with
17 other incentives and grants received by the applicant exceeds 100 per-
18 cent of the total costs associated with the project.

19 “(c) The department may release up to 30 percent of the grant
20 moneys provided for in a performance agreement, not to exceed 30
21 percent of project cost, upon entering into a performance agreement
22 with an applicant for developing a community renewable energy
23 project, with the remaining grant moneys to be released upon project
24 completion under the terms of the performance agreement, if upon
25 entering the performance agreement the applicant demonstrates hav-
26 ing:

27 “(A) Taken meaningful steps to seek site control, including but not
28 limited to an option to lease or purchase the site or an executed letter
29 of intent or exclusivity agreement to negotiate an option to lease or
30 purchase the site;

1 “(B) Filed a request for interconnection with a host utility or ap-
2 propriate transmission provider; and

3 “(C) Met any other requirements provided by the department by
4 rule, such as filing a request for a power purchase or net metering
5 agreement.

6 “(d) The department may recover grant moneys if:

7 “(A) The project fails to abide by the performance agreement;

8 “(B) The project fails to begin construction within 12 months of
9 execution of the performance agreement or a reasonable time frame
10 if good cause to extend the deadline is demonstrated as determined by
11 rule; or

12 “(C) The project is not completed within 36 months of execution of
13 the performance agreement or a reasonable time frame if good cause
14 to extend the deadline is demonstrated as determined by rule.

15 “(3) The department shall gather information from grantees neces-
16 sary to evaluate indicators of success as determined by rule.

17 “SECTION 32. Advisory committee. The Director of the State De-
18 partment of Energy may appoint an Advisory Committee on Commu-
19 nity Renewable Investment to provide consultation on the
20 implementation of sections 29 to 32 of this 2021 Act. A committee ap-
21 pointed under this section shall consist of:

22 “(1) A member of the Environmental Justice Task Force;

23 “(2) A representative of Business Oregon;

24 “(3) A representative of electric companies;

25 “(4) A representative of consumer-owned utilities;

26 “(5) A representative from an organization that represents com-
27 munity renewable energy development;

28 “(6) A representative from a federally recognized Oregon Indian
29 tribe;

30 “(7) Three representatives of local government to represent the in-

1 **terests of counties, cities and special districts;**

2 **“(8) Representatives from nongovernmental organizations that rep-**
3 **resent communities of low income or disadvantaged households; and**

4 **“(9) Representatives from relevant state and federal emergency**
5 **management or response agencies.**

6 **“SECTION 33. Community Renewable Investment Fund; uses. (1)**
7 **The Community Renewable Investment Fund is established in the**
8 **State Treasury, separate and distinct from the General Fund. Interest**
9 **earned by the Community Renewable Investment Fund shall be cred-**
10 **ited to the fund. The fund consists of:**

11 **“(a) Moneys appropriated or otherwise transferred to the fund by**
12 **the Legislative Assembly;**

13 **“(b) Moneys received from federal, state or local sources;**

14 **“(c) Gifts, grants or other moneys contributed to the fund; and**

15 **“(d) Other amounts deposited in the fund from any source.**

16 **“(2) Moneys in the fund are continuously appropriated to the State**
17 **Department of Energy for the purpose of providing grants to appli-**
18 **cants approved under section 30 of this 2021 Act.**

19 **“(3) The department may use reasonable amounts from the fund**
20 **necessary, but no more than 10 percent of the fund, to administer the**
21 **Community Renewable Investment Program described in section 30 of**
22 **this 2021 Act.**

23 **“(4) The Director of the State Department of Energy shall submit**
24 **a biennial report to the Legislative Assembly in the manner provided**
25 **by ORS 293.640 regarding the expenditures of moneys deposited in the**
26 **Community Renewable Investment Fund and status of ongoing**
27 **projects funded by the moneys, including but not limited indicators**
28 **of program success.**

29 **“(5) Upon the expenditure of all grant moneys in the Community**
30 **Renewable Investment Fund or four years from the effective date of**

1 **this 2021 Act, whichever occurs earlier, the director shall submit a**
2 **report to the Legislative Assembly regarding the expenditures of**
3 **moneys deposited in the Community Renewable Investment Fund and**
4 **status of ongoing projects that have received moneys from the fund,**
5 **including but not limited to indicators of program success.**

6 **“SECTION 34. Appropriations. In addition to and not in lieu of any**
7 **other appropriations, there is appropriated to the State Department**
8 **of Energy, for the biennium beginning July 1, 2021, out of the General**
9 **Fund, the amount of \$50,000,000 for deposit into the Community**
10 **Renewable Investment Fund established in section 33 of this 2021**
11 **Act.”.**

12 In line 32, delete “authority” and insert “department”.

13 In line 34, delete “authority” and insert “department”.

14 After line 34, insert:

15

16 **“SMALL-SCALE RENEWABLE ENERGY PROJECTS**

17

18 **“SECTION 36. ORS 469A.210 is amended to read:**

19 **“469A.210. (1) The Legislative Assembly finds that community-based**
20 **renewable energy projects, including but not limited to marine renewable**
21 **energy resources that are either developed in accordance with the Territorial**
22 **Sea Plan adopted pursuant to ORS 196.471 or located on structures adjacent**
23 **to the coastal shorelands, are an essential element of this state’s energy fu-**
24 **ture.**

25 **“(2) For purposes related to the findings in subsection (1) of this section,**
26 **by the year [2025] 2030, at least [eight] 10 percent of the aggregate electrical**
27 **capacity of all electric companies that make sales of electricity to 25,000 or**
28 **more retail electricity consumers in this state must be composed of electric-**
29 **ity generated by one or both of the following sources:**

30 **“(a) Small-scale renewable energy projects with a generating capacity of**

1 20 megawatts or less that generate electricity utilizing a type of energy de-
2 scribed in ORS 469A.025; or

3 “(b) Facilities that generate electricity using biomass that also generate
4 thermal energy for a secondary purpose.

5 “(3) Regardless of the facility’s nameplate capacity, any single facility
6 described in subsection (2)(b) of this section may be used to comply with the
7 requirement specified in subsection (2) of this section for up to 20 megawatts
8 of capacity.”.

9 In line 38, delete “36” and insert “37”.

10 In line 41, delete “37” and insert “38”.

11
