

# House Bill 2426

Sponsored by Representative DIEHL, Senator SMITH DB (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Repeals the law that requires there to be a place for radioactive waste to be disposed of before a nuclear power plant may be sited in this state. Repeals the law that requires a proposed nuclear power plant first receive approval from the electors of this state. Refers the Act to the people for their approval or rejection. (Flesch Readability Score: 64.6).

Repeals the requirement that there be a licensed repository for the disposal of high-level radioactive waste before a site certificate for a nuclear-fueled thermal power plant may be issued.

Repeals the requirement that a proposed site certificate for a nuclear-fueled thermal power plant be submitted to the electors of this state for their approval or rejection.

Refers the Act to the people for their approval or rejection at the next regular general election.

## A BILL FOR AN ACT

1  
2 Relating to nuclear-fueled thermal power plants; amending ORS 215.273, 469.300, 469.310, 469.320,  
3 469.410, 469.450, 469.505, 469.561, 469.594; repealing ORS 469.590, 469.593, 469.595, 469.597,  
4 469.599 and 469.601; and providing that this Act shall be referred to the people for their ap-  
5 proval or rejection.

6 **Be It Enacted by the People of the State of Oregon:**

7 **SECTION 1. ORS 469.590, 469.593, 469.595, 469.597, 469.599 and 469.601 are repealed.**

8 **SECTION 2. ORS 469.594 is amended to read:**

9 469.594. (1) **As used in this section:**

10 (a) **“High-level radioactive waste” means spent nuclear fuel or the radioactive by-**  
11 **products from the reprocessing of spent nuclear fuel.**

12 (b) **“Spent nuclear fuel” means nuclear fuel rods or assemblies which have been**  
13 **irradiated in a power reactor and subsequently removed from that reactor.**

14 [(1)] (2) Notwithstanding the definition of a “waste disposal facility” under ORS 469.300, no  
15 high-level radioactive waste should be stored at the site of a nuclear-fueled thermal power plant  
16 after the expiration of the operating license issued to the nuclear power plant by the United States  
17 Nuclear Regulatory Commission.

18 [(2)] (3) Notwithstanding subsection [(1)] (2) of this section, a person operating a nuclear power  
19 plant under a license issued by the United States Nuclear Regulatory Commission shall remain re-  
20 sponsible for proper temporary storage of high-level radioactive materials at the site of the nuclear  
21 power plant after termination of a license and until such materials are removed from the site for  
22 permanent storage.

23 [(3)] (4) The State Department of Energy and the operators of nuclear-fueled thermal plants shall  
24 pursue agreements with the United States Department of Energy and the United States Nuclear  
25 Regulatory Commission to fulfill the provisions of this section.

26 **SECTION 3. ORS 469.561 is amended to read:**

27 469.561. (1) A person owning and operating a nuclear power plant in this state under a license

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 issued by the United States Nuclear Regulatory Commission or under a site certificate issued under  
 2 ORS 469.300 to 469.563, [469.590 to 469.619,] 469.930 and 469.992 shall obtain and maintain property  
 3 insurance in the maximum insurable amount available for each nuclear incident occurring within  
 4 this state, as required by this section. The insurance shall cover property damage occurring within  
 5 a nuclear plant and its related or supporting facilities as a result of the nuclear incident.

6 (2) Insurance required under this section does not apply to:

7 (a) Any claim of an employee of a person obtaining insurance under this section, if the claim is  
 8 made under a state or federal workers' compensation Act and if the employee is employed at the site  
 9 of and in connection with the nuclear power plant at which the nuclear incident occurred; or

10 (b) Any claim arising out of an act of war.

11 (3) A person obtaining insurance under this section shall maintain insurance for the term of the  
 12 license issued to the nuclear power plant by the United States Nuclear Regulatory Commission and  
 13 for any extension of the term, and until all radioactive material has been removed from the nuclear  
 14 power plant and transportation of the radioactive material from the nuclear power plant has ended.

15 (4) A person obtaining insurance under this section shall file a copy of the insurance policy, any  
 16 amendment to the policy and any superseding insurance policy with the Director of the State De-  
 17 partment of Energy.

18 (5) Property insurance required under this section is in addition to and not in lieu of insurance  
 19 coverage provided under the Price-Anderson Act (42 U.S.C. 2210).

20 (6) Property insurance required by subsections (1) to (5) of this section may include private in-  
 21 surance, self-insurance, utility industry association self-assurance pooling programs, or a combina-  
 22 tion of all three.

23 (7) A person may fulfill the requirements for an insurance policy under subsections (1) to (5) of  
 24 this section by obtaining policies of one or more insurance carriers if the policies together meet the  
 25 requirements of subsections (1) to (5) of this section.

26 **SECTION 4.** ORS 215.273 is amended to read:

27 215.273. Nothing in ORS 215.130, 215.203, 215.213, 215.243, 215.253, 215.263, 215.273, 215.283,  
 28 215.284, 308A.050 to 308A.128 and 316.844 is intended to affect the authority of the Energy Facility  
 29 Siting Council in determining suitable sites for the issuance of site certificates for thermal power  
 30 plants, as authorized under ORS 469.300 to 469.563, [469.590 to 469.619] and 469.930.

31 **SECTION 5.** ORS 469.300, as amended by section 1, chapter 25, Oregon Laws 2024, is amended  
 32 to read:

33 469.300. As used in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992, unless the  
 34 context requires otherwise:

35 (1) "Applicant" means any person who makes application for a site certificate in the manner  
 36 provided in ORS 469.300 to 469.563, [469.590 to 469.619,] 469.930 and 469.992.

37 (2) "Application" means a request for approval of a particular site or sites for the construction  
 38 and operation of an energy facility or the construction and operation of an additional energy facility  
 39 upon a site for which a certificate has already been issued, filed in accordance with the procedures  
 40 established pursuant to ORS 469.300 to 469.563, [469.590 to 469.619,] 469.930 and 469.992.

41 (3) "Associated transmission lines" means new transmission lines constructed to connect an en-  
 42 ergy facility to the first point of junction of such transmission line or lines with either a power  
 43 distribution system or an interconnected primary transmission system or both or to the Northwest  
 44 Power Grid.

45 (4) "Average electric generating capacity" means the peak generating capacity of the facility

1 divided by one of the following factors:

- 2 (a) For wind facilities, 3.00;
- 3 (b) For geothermal energy facilities, 1.11; or
- 4 (c) For all other energy facilities, 1.00.

5 (5) "Battery energy storage system" means an energy storage system that, other than for per-  
6 sonal, noncommercial use:

- 7 (a) Collects energy from the electric grid or an energy generation facility;
- 8 (b) Uses rechargeable batteries to retain and store the energy for a period of time; and
- 9 (c) Discharges the energy after storage to provide electricity when needed.

10 (6) "Combustion turbine power plant" means a thermal power plant consisting of one or more  
11 fuel-fired combustion turbines and any associated waste heat combined cycle generators.

12 (7) "Construction" means work performed on a site, excluding surveying, exploration or other  
13 activities to define or characterize the site, the cost of which exceeds \$250,000.

14 (8) "Council" means the Energy Facility Siting Council established under ORS 469.450.

15 (9) "Department" means the State Department of Energy created under ORS 469.030.

16 (10) "Director" means the Director of the State Department of Energy appointed under ORS  
17 469.040.

18 (11) "Electric utility" means persons, regulated electrical companies, people's utility districts,  
19 joint operating agencies, electric cooperatives, municipalities or any combination thereof, engaged  
20 in or authorized to engage in the business of generating, supplying, transmitting or distributing  
21 electric energy.

22 (12)(a) "Energy facility" means any of the following:

23 (A) An electric power generating plant with a nominal electric generating capacity of 25 mega-  
24 watts or more, including but not limited to:

- 25 (i) Thermal power;
- 26 (ii) Combustion turbine power plant; or
- 27 (iii) Solar thermal power plant.

28 (B) A nuclear installation as defined in this section.

29 (C) A high voltage transmission line of more than 10 miles in length with a capacity of 230,000  
30 volts or more to be constructed in more than one city or county in this state, but excluding:

31 (i) Lines proposed for construction entirely within 500 feet of an existing corridor occupied by  
32 high voltage transmission lines with a capacity of 230,000 volts or more;

33 (ii) Lines of 57,000 volts or more that are rebuilt and upgraded to 230,000 volts along the same  
34 right of way; and

35 (iii) Associated transmission lines.

36 (D) A solar photovoltaic power generation facility using more than:

- 37 (i) 240 acres located on high-value farmland as defined in ORS 195.300;
- 38 (ii) 2,560 acres located on land that is predominantly cultivated or that, if not cultivated, is  
39 predominantly composed of soils that are in capability classes I to IV, as specified by the National  
40 Cooperative Soil Survey operated by the Natural Resources Conservation Service of the United  
41 States Department of Agriculture; or

42 (iii) 3,840 acres located on any other land.

43 (E) A pipeline that is:

44 (i) At least six inches in diameter, and five or more miles in length, used for the transportation  
45 of crude petroleum or a derivative thereof, liquefied natural gas, a geothermal energy form in a

1 liquid state or other fossil energy resource, excluding a pipeline conveying natural or synthetic gas;

2 (ii) At least 16 inches in diameter, and five or more miles in length, used for the transportation  
3 of natural or synthetic gas, but excluding:

4 (I) A pipeline proposed for construction of which less than five miles of the pipeline is more than  
5 50 feet from a public road, as defined in ORS 368.001; or

6 (II) A parallel or upgraded pipeline up to 24 inches in diameter that is constructed within the  
7 same right of way as an existing 16-inch or larger pipeline that has a site certificate, if all studies  
8 and necessary mitigation conducted for the existing site certificate meet or are updated to meet  
9 current site certificate standards; or

10 (iii) At least 16 inches in diameter and five or more miles in length used to carry a geothermal  
11 energy form in a gaseous state but excluding a pipeline used to distribute heat within a geothermal  
12 heating district established under ORS chapter 523.

13 (F) A synthetic fuel plant which converts a natural resource including, but not limited to, coal  
14 or oil to a gas, liquid or solid product intended to be used as a fuel and capable of being burned to  
15 produce the equivalent of two billion Btu of heat a day.

16 (G) A plant which converts biomass to a gas, liquid or solid product, or combination of such  
17 products, intended to be used as a fuel and if any one of such products is capable of being burned  
18 to produce the equivalent of six billion Btu of heat a day.

19 (H) A storage facility for liquefied natural gas constructed after September 29, 1991, that is de-  
20 signed to hold at least 70,000 gallons.

21 (I) A surface facility related to an underground gas storage reservoir that, at design injection  
22 or withdrawal rates, will receive or deliver more than 50 million cubic feet of natural or synthetic  
23 gas per day, or require more than 4,000 horsepower of natural gas compression to operate, but ex-  
24 cluding:

25 (i) The underground storage reservoir;

26 (ii) The injection, withdrawal or monitoring wells and individual wellhead equipment; and

27 (iii) An underground gas storage reservoir into which gas is injected solely for testing or res-  
28 ervoir maintenance purposes or to facilitate the secondary recovery of oil or other hydrocarbons.

29 (J) An electric power generating plant with an average electric generating capacity of 50  
30 megawatts or more if the power is produced from geothermal or wind energy at a single energy fa-  
31 cility or within a single energy generation area.

32 (b) "Energy facility" does not include a hydroelectric facility or an energy facility under para-  
33 graph (a)(A)(iii) or (D) of this subsection that is established on the site of a decommissioned United  
34 States Air Force facility that has adequate transmission capacity to serve the energy facility.

35 (13) "Energy generation area" means an area within which the effects of two or more small  
36 generating plants may accumulate so the small generating plants have effects of a magnitude similar  
37 to a single generating plant of 35 megawatts average electric generating capacity or more. An "en-  
38 ergy generation area" for facilities using a geothermal resource and covered by a unit agreement,  
39 as provided in ORS 522.405 to 522.545 or by federal law, shall be defined in that unit agreement. If  
40 no such unit agreement exists, an energy generation area for facilities using a geothermal resource  
41 shall be the area that is within two miles, measured from the electrical generating equipment of the  
42 facility, of an existing or proposed geothermal electric power generating plant, not including the site  
43 of any other such plant not owned or controlled by the same person.

44 (14) "Extraordinary nuclear occurrence" means any event causing a discharge or dispersal of  
45 source material, special nuclear material or by-product material as those terms are defined in ORS

1 453.605, from its intended place of confinement off-site, or causing radiation levels off-site, that the  
2 United States Nuclear Regulatory Commission or its successor determines to be substantial and to  
3 have resulted in or to be likely to result in substantial damages to persons or property off-site.

4 (15) "Facility" means an energy facility together with any related or supporting facilities.

5 (16) "Geothermal reservoir" means an aquifer or aquifers containing a common geothermal fluid.

6 (17) "Local government" means a city or county.

7 (18) "Nominal electric generating capacity" means the maximum net electric power output of  
8 an energy facility based on the average temperature, barometric pressure and relative humidity at  
9 the site during the times of the year when the facility is intended to operate.

10 (19) "Nuclear incident" means any occurrence, including an extraordinary nuclear occurrence,  
11 that results in bodily injury, sickness, disease, death, loss of or damage to property or loss of use  
12 of property due to the radioactive, toxic, explosive or other hazardous properties of source material,  
13 special nuclear material or by-product material as those terms are defined in ORS 453.605.

14 (20) "Nuclear installation" means any power reactor, nuclear fuel fabrication plant, nuclear fuel  
15 reprocessing plant, waste disposal facility for radioactive waste, and any facility handling that  
16 quantity of fissionable materials sufficient to form a critical mass. "Nuclear installation" does not  
17 include any such facilities that are part of a thermal power plant.

18 (21) "Nuclear power plant" means an electrical or any other facility using nuclear energy with  
19 a nominal electric generating capacity of 25 megawatts or more, for generation and distribution of  
20 electricity, and associated transmission lines.

21 (22) "Person" means an individual, partnership, joint venture, private or public corporation, as-  
22 sociation, firm, public service company, political subdivision, municipal corporation, government  
23 agency, people's utility district, or any other entity, public or private, however organized.

24 (23) "Project order" means the order, including any amendments, issued by the State Department  
25 of Energy under ORS 469.330.

26 (24)(a) "Radioactive waste" includes all material which is discarded, unwanted or has no present  
27 lawful economic use, and contains mined or refined naturally occurring isotopes, accelerator  
28 produced isotopes and by-product material, source material or special nuclear material as those  
29 terms are defined in ORS 453.605.

30 (b) "Radioactive waste" does not include:

31 (A) Materials identified by the council by rule as presenting no significant danger to the public  
32 health and safety.

33 (B) Uranium mine overburden or uranium mill tailings, mill wastes or mill by-product materials  
34 as those terms are defined in Title 42, United States Code, section 2014, on June 25, 1979.

35 (25) "Related or supporting facilities" means any structure, proposed by the applicant, to be  
36 constructed or substantially modified in connection with the construction of an energy facility, in-  
37 cluding associated transmission lines, reservoirs, storage facilities, intake structures, road and rail  
38 access, pipelines, barge basins, office or public buildings, and commercial and industrial structures.  
39 "Related or supporting facilities" does not include geothermal or underground gas storage reser-  
40 voirs, production, injection or monitoring wells or wellhead equipment or pumps.

41 (26) "Site" means any proposed location of an energy facility and related or supporting facilities.

42 (27) "Site certificate" means the binding agreement between the State of Oregon and the appli-  
43 cant, authorizing the applicant to construct and operate a facility on an approved site, incorporating  
44 all conditions imposed by the council on the applicant.

45 (28) "Thermal power plant" means an electrical facility using any source of thermal energy with

1 a nominal electric generating capacity of 25 megawatts or more, for generation and distribution of  
 2 electricity, and associated transmission lines, including but not limited to a nuclear-fueled,  
 3 geothermal-fueled or fossil-fueled power plant, but not including a portable power plant the principal  
 4 use of which is to supply power in emergencies. “Thermal power plant” includes a nuclear-fueled  
 5 thermal power plant that has ceased to operate.

6 (29) “Transportation” means the transport within the borders of the State of Oregon of radio-  
 7 active material destined for or derived from any location.

8 (30) “Underground gas storage reservoir” means any subsurface sand, strata, formation, aquifer,  
 9 cavern or void, whether natural or artificially created, suitable for the injection, storage and with-  
 10 drawal of natural gas or other gaseous substances. “Underground gas storage reservoir” includes a  
 11 pool as defined in ORS 520.005.

12 (31) “Utility” includes:

13 (a) A person, a regulated electrical company, a people’s utility district, a joint operating agency,  
 14 an electric cooperative, municipality or any combination thereof, engaged in or authorized to engage  
 15 in the business of generating, transmitting or distributing electric energy;

16 (b) A person or public agency generating electric energy from an energy facility for its own  
 17 consumption; and

18 (c) A person engaged in this state in the transmission or distribution of natural or synthetic gas.

19 (32) “Waste disposal facility” means a geographical site in or upon which radioactive waste is  
 20 held or placed but does not include a site at which radioactive waste used or generated pursuant  
 21 to a license granted under ORS 453.635 is stored temporarily, a site of a thermal power plant used  
 22 for the temporary storage of radioactive waste from that plant for which a site certificate has been  
 23 issued pursuant to this chapter or a site used for temporary storage of radioactive waste from a  
 24 reactor operated by a college, university or graduate center for research purposes and not con-  
 25 nected to the Northwest Power Grid. As used in this subsection, “temporary storage” includes  
 26 storage of radioactive waste on the site of a nuclear-fueled thermal power plant for which a site  
 27 certificate has been issued until a permanent storage site is available by the federal government.

28 **SECTION 6.** ORS 469.310 is amended to read:

29 469.310. In the interests of the public health and the welfare of the people of this state, it is the  
 30 declared public policy of this state that the siting, construction and operation of energy facilities  
 31 shall be accomplished in a manner consistent with protection of the public health and safety and in  
 32 compliance with the energy policy and air, water, solid waste, land use and other environmental  
 33 protection policies of this state. It is, therefore, the purpose of ORS 469.300 to 469.563, [469.590 to  
 34 469.619,] **469.594**, 469.930 and 469.992 to exercise the jurisdiction of the State of Oregon to the  
 35 maximum extent permitted by the United States Constitution and to establish in cooperation with  
 36 the federal government a comprehensive system for the siting, monitoring and regulating of the lo-  
 37 cation, construction and operation of all energy facilities in this state. It is furthermore the policy  
 38 of this state, notwithstanding ORS 469.010 (2)(f) and the definition of cost-effective in ORS 469.020,  
 39 that the need for new generating facilities, as defined in ORS 469.503, is sufficiently addressed by  
 40 reliance on competition in the market rather than by consideration of cost-effectiveness and shall  
 41 not be a matter requiring determination by the Energy Facility Siting Council in the siting of a  
 42 generating facility, as defined in ORS 469.503.

43 **SECTION 7.** ORS 469.320, as amended by section 2, chapter 25, Oregon Laws 2024, and section  
 44 9, chapter 51, Oregon Laws 2024, is amended to read:

45 469.320. (1) Except as provided in subsections (2) and (5) of this section, no facility shall be

1 constructed or expanded unless a site certificate has been issued for the site thereof in the manner  
2 provided in ORS 469.300 to 469.563, [*469.590 to 469.619,*] 469.930 and 469.992. No facility shall be  
3 constructed or operated except in conformity with the requirements of ORS 469.300 to 469.563,  
4 [*469.590 to 469.619,*] 469.930 and 469.992.

5 (2) A site certificate is not required for:

6 (a) An energy facility for which no site certificate has been issued that, on August 2, 1993, had  
7 operable electric generating equipment for a modification that uses the same fuel type and increases  
8 electric generating capacity, if:

9 (A) The site is not enlarged; and

10 (B) The ability of the energy facility to use fuel for electricity production under peak steady  
11 state operating conditions is not more than 200 million Btu per hour greater than it was on August  
12 2, 1993, or the energy facility expansion is called for in the short-term plan of action of an energy  
13 resource plan that has been acknowledged by the Public Utility Commission of Oregon.

14 (b) Construction or expansion of any interstate natural gas pipeline or associated underground  
15 natural gas storage facility authorized by and subject to the continuing regulation of the Federal  
16 Energy Regulatory Commission or successor agency.

17 (c) An energy facility, except coal and nuclear power plants, if the energy facility:

18 (A) Sequentially produces electrical energy and useful thermal energy from the same fuel source;  
19 and

20 (B) Under average annual operating conditions, has a nominal electric generating capacity:

21 (i) Of less than 50 megawatts and the fuel chargeable to power heat rate value is not greater  
22 than 6,000 Btu per kilowatt hour;

23 (ii) Of 50 megawatts or more and the fuel chargeable to power heat rate value is not greater  
24 than 5,500 Btu per kilowatt hour; or

25 (iii) Specified by the Energy Facility Siting Council by rule based on the council's determination  
26 relating to emissions of the energy facility.

27 (d) Temporary storage, at the site of a nuclear-fueled thermal power plant for which a site cer-  
28 tificate has been issued by the State of Oregon, of radioactive waste from the plant.

29 (e) An energy facility as defined in ORS 469.300 (12)(a)(G), if the plant also produces a secondary  
30 fuel used on site for the production of heat or electricity, if the output of the primary fuel is less  
31 than six billion Btu of heat a day.

32 (f) An energy facility as defined in ORS 469.300 (12)(a)(G), if the facility:

33 (A) Exclusively uses biomass, including but not limited to grain, whey, potatoes, oilseeds, waste  
34 vegetable oil or cellulosic biomass, as the source of material for conversion to a liquid fuel;

35 (B) Has received local land use approval under the applicable acknowledged comprehensive plan  
36 and land use regulations of the affected local government and the facility complies with any state-  
37 wide planning goals or rules of the Land Conservation and Development Commission that are di-  
38 rectly applicable to the facility;

39 (C) Requires no new electric transmission lines or gas or petroleum product pipelines that would  
40 require a site certificate under subsection (1) of this section;

41 (D) Produces synthetic fuel, at least 90 percent of which is used in an industrial or refueling  
42 facility located within one mile of the facility or is transported from the facility by rail or barge;  
43 and

44 (E) Emits less than 118 pounds of carbon dioxide per million Btu from fossil fuel used for con-  
45 version energy.

1 (g) A standby generation facility, if the facility complies with all of the following:

2 (A) The facility has received local land use approval under the applicable acknowledged com-  
 3 prehensive plan and land use regulations of the affected local government and the facility complies  
 4 with all statewide planning goals and applicable rules of the Land Conservation and Development  
 5 Commission;

6 (B) The standby generators have been approved by the Department of Environmental Quality  
 7 as having complied with all applicable air and water quality requirements. For an applicant that  
 8 proposes to provide the physical facilities for the installation of standby generators, the requirement  
 9 of this subparagraph may be met by agreeing to require such a term in the lease contract for the  
 10 facility; and

11 (C) The standby generators are:

12 (i) Electrically incapable of being interconnected to the transmission grid. For an applicant that  
 13 proposes to provide the physical facilities for the installation of standby generators under this sub-  
 14 subparagraph, the requirement of this sub-subparagraph may be met by agreeing to require such a  
 15 term in the lease contract for the facility; or

16 (ii) Electrically capable of being interconnected to the grid but are dispatched to the grid by a  
 17 local transmission and distribution grid operator or balancing authority to support grid reliability,  
 18 are operated consistent with 40 C.F.R. 63.6640(f), as in effect on March 27, 2024, and are exclusively  
 19 using renewable fuels, including renewable diesel, renewable natural gas or renewable hydrogen, if  
 20 such fuels are available and if their use does not violate the warranty or certification of the gen-  
 21 erator.

22 (3) The Energy Facility Siting Council may review and, if necessary, revise the fuel chargeable  
 23 to power heat rate value set forth in subsection (2)(c)(B) of this section. In making its determination,  
 24 the council shall ensure that the fuel chargeable to power heat rate value for facilities set forth in  
 25 subsection (2)(c)(B) of this section remains significantly lower than the fuel chargeable to power  
 26 heat rate value for the best available, commercially viable thermal power plant technology at the  
 27 time of the revision.

28 (4)(a)(A) Any person who proposes to construct or enlarge an energy facility and who claims an  
 29 exemption under subsection (2)(a), (c) or (f) of this section from the requirement to obtain a site  
 30 certificate shall request the Energy Facility Siting Council to determine whether the proposed fa-  
 31 cility qualifies for the claimed exemption.

32 (B) The council may not require a person who operates or proposes to construct or enlarge an  
 33 energy facility to request that the council determine whether the proposed facility qualifies for ex-  
 34 emption under subsection (2)(g) of this section.

35 (b) The council shall make its determination within 60 days after the request for exemption is  
 36 filed. An appeal from the council's determination on a request for exemption shall be made under  
 37 ORS 469.403, except that the scope of review by the Supreme Court shall be the same as a review  
 38 by a circuit court under ORS 183.484. The record on review by the Supreme Court shall be the re-  
 39 cord established in the council proceeding on the exemption.

40 (5) Notwithstanding subsection (1) of this section, a separate site certificate shall not be re-  
 41 quired for:

42 (a) Transmission lines, battery energy storage systems, storage facilities, pipelines or similar  
 43 related or supporting facilities, if such related or supporting facilities are addressed in and are  
 44 subject to a site certificate for another energy facility;

45 (b) Expansion within the site or within the energy generation area of a facility for which a site



1 certificate has been issued, if the existing site certificate has been amended to authorize expansion;  
 2 or

3 (c) Expansion, either within the site or outside the site, of an existing council certified surface  
 4 facility related to an underground gas storage reservoir, if the existing site certificate is amended  
 5 to authorize expansion.

6 (6) If the substantial loss of the steam host causes a facility exempt under subsection (2)(c) of  
 7 this section to substantially fail to meet the exemption requirements under subsection (2)(c) of this  
 8 section, the electric generating facility shall cease to operate one year after the substantial loss of  
 9 the steam host unless an application for a site certificate has been filed in accordance with the  
 10 provisions of ORS 469.300 to 469.563.

11 (7) As used in this section:

12 (a) “Standby generation facility” means an electric power generating facility, including standby  
 13 generators and the physical structures necessary to install and connect standby generators, that  
 14 provides temporary electric power:

15 (A) In the event of a power outage and that is electrically incapable of being interconnected  
 16 with the transmission grid; or

17 (B) Consistent with 40 C.F.R. 63.6640(f), as in effect on March 27, 2024.

18 (b) “Total energy output” means the sum of useful thermal energy output and useful electrical  
 19 energy output.

20 (c) “Useful thermal energy” means the verifiable thermal energy used in any viable industrial  
 21 or commercial process, heating or cooling application.

22 (8)(a) If the developer of a facility elects, or the governing body of the local government after  
 23 consulting with the developer elects, to defer regulatory authority to the Energy Facility Siting  
 24 Council, the developer of a facility shall obtain a site certificate, in the manner provided in ORS  
 25 469.300 to 469.563, ~~469.590 to 469.619,~~ 469.930 and 469.992, for a facility that, notwithstanding the  
 26 definition of “energy facility” in ORS 469.300, is:

27 (A) An electric power generating plant with an average electric generating capacity of less than  
 28 50 megawatts produced from wind energy at a single energy facility or within a single energy gen-  
 29 eration area;

30 (B) An associated transmission line;

31 (C) A battery energy storage system; or

32 (D) A solar photovoltaic power generation facility that is not an energy facility as defined in  
 33 ORS 469.300 (12)(a)(D).

34 (b) An election by a developer or a local government under this subsection is final.

35 (c) An election by a local government under this subsection is not a land use decision as defined  
 36 in ORS 197.015.

37 (d) A local government may not make an election under this subsection after a permit applica-  
 38 tion has been submitted under ORS 215.416 or 227.175.

39 **SECTION 8.** ORS 469.410 is amended to read:

40 469.410. (1) Any applicant for a site certificate for an energy facility shall be deemed to have  
 41 met all the requirements of ORS 176.820, 192.338, 192.345, 192.355, 192.690, 469.010 to 469.155, 469.300  
 42 to 469.563, 469.990, 757.710 and 757.720 relating to eligibility for a site certificate and a site certif-  
 43 icate shall be issued by the Energy Facility Siting Council for:

44 (a) Any transmission lines for which application has been filed with the federal government and  
 45 the Public Utility Commission of Oregon prior to July 2, 1975; and

1 (b) Any energy facility under construction on July 2, 1975.

2 (2) Each applicant for a site certificate under this section shall pay the fees required by ORS  
3 469.421 (2) to (9), if applicable, and shall execute a site certificate in which the applicant agrees:

4 (a) To abide by the conditions of all licenses, permits and certificates required by the State of  
5 Oregon or any subdivision in the state to operate the energy facility and issued prior to July 2, 1975;  
6 and

7 (b) On and after July 2, 1975, to abide by the rules of the Director of the State Department of  
8 Energy adopted pursuant to ORS 469.040 (1)(d) and rules of the council adopted pursuant to ORS  
9 469.300 to 469.563, [469.590 to 469.619] **469.594** and 469.930.

10 (3) The council has continuing authority over the site for which the site certificate is issued and  
11 may inspect, or direct the State Department of Energy to inspect, or request another state agency  
12 or local government to inspect, the site at any time in order to ensure that the facility is being  
13 operated consistently with the terms and conditions of the site certificate and any applicable health  
14 or safety standards.

15 (4) The council shall establish programs for monitoring the environmental and ecological effects  
16 of the operation and the decommissioning of energy facilities subject to site certificates issued prior  
17 to July 2, 1975, to ensure continued compliance with the terms and conditions of the site certificate  
18 and any applicable health or safety standards.

19 (5) Site certificates executed by the Governor under ORS 469.400 (1991 Edition) prior to July  
20 2, 1975, shall bind successor agencies created hereunder in accordance with the terms of such site  
21 certificates. Any holder of a site certificate issued prior to July 2, 1975, shall abide by the rules of  
22 the director adopted pursuant to ORS 469.040 (1)(d) and rules of the council adopted pursuant to  
23 ORS 469.300 to 469.563, [469.590 to 469.619,] **469.594**, 469.930 and 469.992.

24 **SECTION 9.** ORS 469.450 is amended to read:

25 469.450. (1) There is established in the State Department of Energy an Energy Facility Siting  
26 Council, consisting of seven public members, who shall be appointed by the Governor, subject to  
27 confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565.

28 (2) The term of office of each member is four years, but a member serves at the pleasure of the  
29 Governor. Before the expiration of the term of a member, the Governor shall appoint a successor  
30 whose term begins on July 1 next following. A member is eligible for reappointment, but no member  
31 shall serve more than two full terms. If there is a vacancy for any cause, the Governor shall make  
32 an appointment to become immediately effective for the unexpired term.

33 (3) No member of the council shall be an employee, director or retired employee or director of,  
34 or a consultant to, or have any pecuniary interest, other than an incidental interest which is dis-  
35 closed and made a matter of public record at the time of the appointment to the council, in:

36 (a) Any corporation or utility operating or interested in establishing an energy facility in this  
37 state; or

38 (b) Any manufacturer of equipment related to the operation or establishment of an energy fa-  
39 cility in this state.

40 (4) No member shall for two years after the expiration of the term of the member accept em-  
41 ployment with an owner or operator of an energy facility that is subject to ORS 469.300 to 469.563,  
42 [469.590 to 469.619,] **469.594**, 469.930 and 469.992.

43 (5) Employment of a person in violation of this section shall be grounds for revocation of any  
44 license issued by this state or an agency of this state that is held by the owner or operator of the  
45 energy facility that employs the person.

1 (6) The State Department of Energy shall provide clerical and staff support to the council and  
 2 fund the activities of the council through fees collected under ORS 469.421.

3 **SECTION 10.** ORS 469.505 is amended to read:

4 469.505. (1) In making a determination regarding compliance with statutes, rules and ordinances  
 5 administered by another agency or compliance with requirements of ORS 469.300 to 469.563 [*and*  
 6 *469.590 to 469.619*] where another agency has special expertise, consultation with the other agency  
 7 shall occur during the notice of intent and site certificate application process. Any permit applica-  
 8 tion for which the permitting decision has been delegated by the federal government to a state  
 9 agency other than the Energy Facility Siting Council shall be reviewed, whenever feasible, simul-  
 10 taneously with the council's review of the site certificate application. Any hearings required on such  
 11 permit applications shall be consolidated, whenever feasible, with hearings under ORS 469.300 to  
 12 469.563 [*and 469.590 to 469.619*].

13 (2) Before resolving any conflicting conditions in site certificates or amended site certificates  
 14 under ORS 469.503 (3) and 469.504, the council shall notify and consult with the agencies and local  
 15 governments responsible for administering the statutes, administrative rules or substantive local  
 16 criteria that result in the conflicting conditions regarding potential conflict resolution.

17 **SECTION 11.** **This 2025 Act shall be submitted to the people for their approval or re-**  
 18 **jection at the next regular general election held throughout this state.**

19