

March 11, 2025

House Committee on Climate, Energy, and Environment
Oregon Legislature

RE: Opposition to HB 3681 *and -1 amendment*

Chair Lively, Vice Chair Gamba, Vice Chair Levy, and Members of the Committee:

My name is Ryan Krabill, and I am submitting testimony on behalf of the Oregon Farm Bureau (OFB) to express our concerns with HB 3681. While we recognize the importance of an efficient and predictable energy facility siting process, this bill undermines farmland protections, weakens local land use control, and expands eminent domain authority in a way that is inconsistent with Oregon's land use goals and the interests of the agricultural community.

Oregon Farm Bureau (OFB) is the state's most inclusive agriculture organization, proudly representing over 6,500 family farms and ranches that produce more than 220 agricultural commodities. From hops and hazelnuts to cattle, cranberries, and timber with operations spanning from just a few acres to thousands, our members utilize all farming methods including organic, conventional, regenerative, biotech, and even no-tech.

Our policies are rooted in the principles of farmland protection, local land use authority, and respect for property rights considerations. While we support efforts to responsibly improve regulatory efficiency, any reform to the energy siting process must maintain a balance between infrastructure development and the long-term viability of Oregon's agricultural lands. Unfortunately, HB 3681 does not achieve that balance.

Our original (not italicized) comments were prepared prior to the late afternoon posting of the -1 amendment on Monday, March 10. While we were hopeful that the -1 amendment would address some of our concerns, in fact they have done the opposite as the amendment goes further than the original legislative proposal to weaken land use laws and limit essential feedback from those who are most directly affected by this bill.

The net effect of the -1 amendment versus the original bill includes:

- 1. Fewer legal avenues for landowners to challenge projects by limiting all appeals to the Oregon Supreme Court*
- 2. The further restriction of public opposition to energy projects by limiting appeal to only parties to the contested case or those who submitted comments*
- 3. The further reduction of public and local government input by allowing the Energy Facility Siting Council (EFSC) to bypass contested case hearings for certain site certificate amendments*
- 4. Easier construction delay without review by allowing automatic three-year extensions without a site certificate amendment*
- 5. Less transparency and fewer opportunities for landowners to make their voices heard by narrowing the grounds for contested cases*

Beyond the additional concerning elements outlined above that are specific to the -1 amendment, the points below address our ongoing concerns with the original bill.

1. Encroachment on Exclusive Farm Use (EFU) Land

One of the most troubling aspects of HB 3681 is its expansion of high-voltage transmission lines into EFU zones when designated as having “statewide significance” by a regional transmission authority. Oregon’s land use system was designed to protect farmland from non-agricultural development, ensuring that farming remains a viable industry for generations to come. By allowing transmission lines to be sited on EFU land without a requirement to evaluate alternative locations, this bill prioritizes energy infrastructure over agricultural production and opens the door for unnecessary encroachments on farm and ranch operations. OFB strongly opposes non-farm infrastructure on EFU land when viable alternatives exist. If HB 3681 is to move forward, it must include a requirement for alternative siting analysis that prioritizes non-EFU land before allowing transmission lines to be placed in farm zones.

2. Weakening of Local Land Use Control

HB 3681 removes the requirement for energy developers to obtain local land use approvals before seeking a certificate of public convenience and necessity for transmission projects. This provision is deeply concerning because it reduces the ability of rural communities to guide development in a way that protects agriculture and aligns with local priorities. Oregon’s land use system is built on the principle of local control, allowing counties and municipalities to make informed decisions about land use within their jurisdictions. OFB supports local government authority over land use decisions, ensuring that farmers and rural residents have a voice in the siting of infrastructure that impacts their land and livelihoods. HB 3681 shifts too much decision-making power to the Energy Facility Siting Council (EFSC) and weakens the role of local governments in shaping their communities. To ensure fairness and local accountability, this bill must be amended to restore local government approval authority before energy projects can be sited.

3. Expansion of Eminent Domain Authority

Another major concern with HB 3681 is its expansion of eminent domain powers for energy projects. The bill allows a site certificate issued by EFSC to serve as conclusive evidence of public use and necessity in condemnation proceedings, effectively fast-tracking the government's ability to seize farmland for transmission infrastructure. This provision eliminates a landowner's ability to challenge whether their land is truly necessary for a project, stripping away an important protection for farm and ranch families. OFB explicitly opposes the use of eminent domain for energy infrastructure when viable alternatives exist. While Oregon must invest in a modern and reliable energy grid, it must do so in a way that respects private property rights. HB 3681 should be amended to remove the provision that automatically justifies eminent domain actions, ensuring that landowners retain the right to contest condemnation efforts.

4. Extending Construction Timelines Without Accountability

The bill also grants energy developers the ability to extend construction deadlines by up to three additional years without requiring a formal review. While flexibility in project development is important, prolonged construction timelines can create uncertainty and disruptions for farmers whose land is affected by these projects. Under Oregon's land use laws, non-farm development in agricultural zones is meant to be strictly limited and carefully managed. OFB supports clear and enforceable timelines for non-agricultural development on EFU land to prevent unnecessary land disruptions. Without oversight, extended construction deadlines could leave farmland idle or unusable for years, reducing productivity and creating long-term impacts on farm operations. To ensure that farmland is not left in limbo, HB 3681 should include stronger accountability measures, such as requiring energy developers to submit land restoration plans if projects are not completed within the original timeframe.

5. Policy Development Process

At multiple points during this morning's hearing in the House Committee on Climate, Energy, and Environment, panelists referenced a Transmission Work Group that consisted of a substantially large group of people and extensive meetings over a long period of time. It is unfortunate that Oregon's agricultural interests appear to have been left out of this important policy discussion that will have direct adverse impacts on their operations and property. Unfortunately, this speaks to our underlying concern that this proposal intends to quiet the voices that speak on behalf of Oregon's rural areas and agricultural lands.

Balancing Efficiency with Farmland Protection

Although OFB has significant concerns with HB 3681, we do acknowledge the value of streamlining the EFSC process to provide regulatory certainty for all stakeholders. Farmers who support or oppose a given energy project benefit from a clear and predictable permitting process that allows for timely decisions. The requirement for EFSC to issue a final order within 12 months offers a structured timeline that prevents prolonged bureaucratic delays. Additionally, OFB supports efficient and transparent permitting

processes, provided they do not undermine local input or farmland protections. However, efficiency should not come at the expense of Oregon's agricultural economy, and HB 3681 prioritizes infrastructure development over the long-term preservation of farmland.

Conclusion: OFB Opposes HB 3681

The Oregon Farm Bureau cannot support HB 3681 in its current form because it undermines farmland protection, weakens local control, and expands eminent domain in ways that are inconsistent with OFB policy. However, if the bill were amended to better balance energy development with the protection of agricultural land and property rights, OFB would be open to a more constructive discussion.

To achieve that balance, we respectfully urge the Committee to amend HB 3681 to:

1. Require an alternative siting analysis that prioritizes non-EFU land for transmission lines.
2. Restore local land use approval authority before energy projects can proceed.
3. Eliminate automatic justification for eminent domain to ensure landowners retain the right to challenge condemnation.
4. Limit construction extensions and require developers to submit land restoration plans if projects are delayed.

Without these critical protections, OFB must oppose HB 3681 to safeguard Oregon's agricultural lands and the families who depend on them.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ryan J. Krabill', with a long horizontal flourish extending to the right.

Ryan J. Krabill
Oregon Farm Bureau