

# Senate Bill 121

Sponsored by Senator OLSEN; Senator THOMSEN (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**.

Removes restrictions on hydroelectric electricity, including restriction that hydroelectric electricity be generated by facility that became operational on or after January 1, 1995, for purpose of qualifying for renewable portfolio standard.

## A BILL FOR AN ACT

1  
2 Relating to use of hydroelectric electricity to qualify for renewable portfolio standard; amending  
3 ORS 469A.020 and 469A.025.

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

5 **SECTION 1.** ORS 469A.020 is amended to read:

6 469A.020. (1) Except as provided in this section, electricity may be used to comply with a  
7 renewable portfolio standard only if the electricity is generated by:

8 (a) A facility that becomes operational on or after January 1, 1995[.]; **or**

9 (b) **A hydroelectric facility.**

10 (2) Electricity from a generating facility, other than a [*hydroelectric*] facility **described in sub-**  
11 **section (3) or (4) of this section**, that became operational before January 1, 1995, may be used to  
12 comply with a renewable portfolio standard if the electricity is attributable to capacity or efficiency  
13 upgrades made on or after January 1, 1995.

14 [(3) *Electricity from a hydroelectric facility that became operational before January 1, 1995, may*  
15 *be used to comply with a renewable portfolio standard if the electricity is attributable to efficiency up-*  
16 *grades made on or after January 1, 1995. If an efficiency upgrade is made to a Bonneville Power*  
17 *Administration facility, only that portion of the electricity generation attributable to Oregon's share of*  
18 *the electricity may be used to comply with a renewable portfolio standard.*]

19 [(4) *Subject to the limit imposed by ORS 469A.025 (5), electricity from a hydroelectric facility that*  
20 *became operational before January 1, 1995, may be used to comply with a renewable portfolio standard*  
21 *if the facility is certified as a low-impact hydroelectric facility on or after January 1, 1995, by a na-*  
22 *tional certification organization recognized by the State Department of Energy by rule, and if the fa-*  
23 *ility is either:*]

24 [(a) *Owned by an electric utility; or*]

25 [(b) *Not owned by an electric utility and located in Oregon and licensed by the Federal Energy*  
26 *Regulatory Commission under the Federal Power Act, 16 U.S.C. 791a et seq., or exempt from such li-*  
27 *cence.*]

28 [(5)(a)] **(3)(a)** Electricity from a generating facility located in this state that uses biomass and  
29 that became operational before January 1, 1995, may be used to comply with a renewable portfolio  
30 standard if the facility meets the requirements of the federal Public Utility Regulatory Policies Act  
31 of 1978 (P.L. 95-617) on March 4, 2010, regardless of whether the facility qualifies under the re-

**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 requirements of the Public Utility Commission.

2 (b) Renewable energy certificates derived from electricity generated by a facility that qualifies  
3 under paragraph (a) of this subsection may not be used to comply with a renewable portfolio  
4 standard before January 1, 2026. However, renewable energy certificates issued before January 1,  
5 2026, may be banked pursuant to ORS 469A.005 to 469A.210 for use on or after January 1, 2026.

6 [(6)] (4) A facility located in this state that generates electricity from direct combustion of mu-  
7 nicipal solid waste and that became operational before January 1, 1995, may be used to comply with  
8 a renewable portfolio standard for up to 11 average megawatts of electricity generated per calendar  
9 year. Renewable energy certificates derived from electricity generated by a facility described in this  
10 subsection may not be used to comply with a renewable portfolio standard before January 1, 2026.  
11 However, renewable energy certificates issued before January 1, 2026, may be banked pursuant to  
12 ORS 469A.005 to 469A.210 for use on or after January 1, 2026.

13 **SECTION 2.** ORS 469A.025 is amended to read:

14 469A.025. (1) Electricity generated utilizing the following [types] **sources** of energy may be used  
15 to comply with a renewable portfolio standard:

16 (a) Wind energy.

17 (b) Solar photovoltaic and solar thermal energy.

18 (c) Wave, tidal and ocean thermal energy.

19 (d) Geothermal energy.

20 (e) **Hydroelectric energy.**

21 (2) Except as provided in subsection (3) of this section, electricity generated from biomass and  
22 biomass by-products may be used to comply with a renewable portfolio standard, including but not  
23 limited to electricity generated from:

24 (a) Organic human or animal waste;

25 (b) Spent pulping liquor;

26 (c) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest  
27 or rangeland ecological health and to reduce uncharacteristic stand replacing wildfire risk;

28 (d) Wood material from hardwood timber grown on land described in ORS 321.267 (3);

29 (e) Agricultural residues;

30 (f) Dedicated energy crops; and

31 (g) Landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters or  
32 municipal solid waste.

33 (3) Electricity generated from the direct combustion of biomass may not be used to comply with  
34 a renewable portfolio standard if any of the biomass combusted to generate the electricity includes  
35 wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or  
36 chromated copper arsenate.

37 [(4) *Electricity generated by a hydroelectric facility may be used to comply with a renewable port-  
38 folio standard only if:*

39 [(a) *The facility is located outside any protected area designated by the Pacific Northwest Electric  
40 Power and Conservation Planning Council as of July 23, 1999, or any area protected under the federal  
41 Wild and Scenic Rivers Act, P.L. 90-542, or the Oregon Scenic Waterways Act, ORS 390.805 to  
42 390.925; or]*

43 [(b) *The electricity is attributable to efficiency upgrades made to the facility on or after January  
44 1, 1995.*]

45 [(5)(a) *Up to 50 average megawatts of electricity per year generated by an electric utility from cer-*

1 *tified low-impact hydroelectric facilities described in ORS 469A.020 (4)(a) may be used to comply with*  
 2 *a renewable portfolio standard, without regard to the number of certified facilities operated by the*  
 3 *electric utility or the generating capacity of those facilities. A hydroelectric facility described in this*  
 4 *paragraph is not subject to the requirements of subsection (4) of this section.]*

5 *[(b) Up to 40 average megawatts of electricity per year generated by certified low-impact hydro-*  
 6 *electric facilities described in ORS 469A.020 (4)(b) may be used to comply with a renewable portfolio*  
 7 *standard, without regard to the number of certified facilities or the generating capacity of those facili-*  
 8 *ties. A hydroelectric facility described in this paragraph is not subject to the requirements of subsection*  
 9 *(4) of this section.]*

10 *[(6)(a)] (4)(a)* Direct combustion of municipal solid waste in a generating facility located in this  
 11 state may be used to comply with a renewable portfolio standard. The qualification of a municipal  
 12 solid waste facility for use in compliance with a renewable portfolio standard has no effect on the  
 13 qualification of the facility for a tax credit under ORS 469B.130 to 469B.169.

14 (b) The total amount of electricity generated in this state by direct combustion of municipal  
 15 solid waste by generating facilities that became operational in this state on or after January 1, 1995,  
 16 may not exceed nine average megawatts per year for the purpose of complying with a renewable  
 17 portfolio standard.

18 *[(7)] (5)* Electricity generated from hydrogen gas, including electricity generated by hydrogen  
 19 power stations using anhydrous ammonia as a fuel source, may be used to comply with a renewable  
 20 portfolio standard if:

21 (a) The electricity is derived from[:] **any source of energy described in subsection (1) or (2)**  
 22 **of this section; and**

23 *[(A) Any source of energy described in subsection (1) or (2) of this section; or]*

24 *[(B) A hydroelectric facility that complies with subsection (4) of this section and that is certified*  
 25 *as a low-impact hydroelectric facility as described in ORS 469A.020 (4); and]*

26 (b) The output of the original source of energy is not also used to comply with a renewable  
 27 portfolio standard.

28 *[(8)] (6)* If electricity generation employs multiple energy sources, that portion of the electricity  
 29 generated that is attributable to energy sources described in this section may be used to comply  
 30 with a renewable portfolio standard.

31 *[(9)] (7)* The State Department of Energy by rule may approve energy sources other than those  
 32 described in this section that may be used to comply with a renewable portfolio standard. The de-  
 33 partment may not approve petroleum, natural gas, coal or nuclear fission as an energy source that  
 34 may be used to comply with a renewable portfolio standard.

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