

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3038**

1 In line 2 of the printed bill, after “electricity” insert “; appropriating  
2 money; and declaring an emergency.

3 “Whereas rapid development of locally owned renewable energy is needed  
4 to reduce emissions of greenhouse gases that contribute to climate change,  
5 assist Oregon in meeting or exceeding its greenhouse gas emissions targets  
6 set by law, ensure Oregon meets or exceeds the renewable energy require-  
7 ments and community-based renewable energy project goals set out in the  
8 renewable portfolio standards, reduce local and regional air, soil and water  
9 pollution, protect the environment and human health, contribute to building  
10 a green economy, create new jobs and improve economic and social well-  
11 being in urban and rural low income and isolated areas, secure and diversify  
12 the energy supply, reduce long-term price volatility of energy supplies and  
13 contribute to the development of Oregon’s energy technology industry; now,  
14 therefore,”.

15 Delete lines 4 through 8 and insert:

16 **“SECTION 1. Definitions. As used in sections 1 to 8 of this 2009 Act:**

17 **“(1) ‘Base wind project’ means a qualifying project using energy**  
18 **generated from wind with a specific yield of less than 700 kilowatt**  
19 **hours per square meter.**

20 **“(2) ‘Electric utility’ has the meaning given that term in ORS**  
21 **757.600.**

22 **“(3) ‘Eligible generator’ means any person or public body as defined**

1 in ORS 174.109 that generates electricity using a qualifying project.

2 “(4) ‘Qualifying project’ means:

3 “(a) A facility that generates electricity from biomass, as defined  
4 in ORS 315.141, with a generating capacity no greater than 20 mega-  
5 watts;

6 “(b) A hydroelectric facility that:

7 “(A) Complies with the site restrictions in ORS 469A.025 (4)(a);

8 “(B) Has a generating capacity no greater than 20 megawatts; and

9 “(C) Is certified as a low-impact hydroelectric facility by a national  
10 certification organization recognized by the State Department of En-  
11 ergy by rule;

12 “(c) A facility that generates electricity using the solar photovoltaic  
13 effect, with a generating capacity no greater than one megawatt, and  
14 that is installed:

15 “(A) On a rooftop;

16 “(B) As facade cladding attached to the wall of a building; or

17 “(C) As an open field project independent of any buildings or  
18 structures used for other purposes; or

19 “(d) A facility that generates electricity from wind with a generat-  
20 ing capacity no greater than 20 megawatts.

21 “(5) ‘Small turbine wind project’ means a qualifying project with  
22 wind turbines having a rotor swept area of 200 square meters or less,  
23 or, for a horizontal axis wind turbine, a rotor diameter of less than  
24 16 meters.

25 “SECTION 2. Mandatory power purchases. (1) Except as provided in  
26 this section, electric utilities shall enter into power purchase agree-  
27 ments for a term of not less than the guaranteed period set forth in  
28 section 3 of this 2009 Act to purchase all electricity produced by qual-  
29 ifying projects that are located in the electric utility’s service district  
30 for the prices established under section 3 of this 2009 Act.

1       “(2) The State Department of Energy shall develop a standard power  
2 purchase agreement for the purposes of this section. The department  
3 may revise the standard agreement as necessary.

4       “(3) An eligible generator is responsible for the costs associated  
5 with the interconnection of the qualifying project to the transmission  
6 system of the electric utility.

7       “(4) Before submitting a request for connection, an eligible genera-  
8 tor must request confirmation from the electric utility that the utility  
9 can connect the eligible generator’s project to the electric utility’s  
10 transmission system. The electric utility must respond to the eligible  
11 generator’s request within 60 days.

12       “(5) If an electric utility’s response to a request made under sub-  
13 section (4) of this section indicates that the eligible generator’s project  
14 can be connected to the electric utility’s transmission system, the el-  
15 ible generator and the utility shall enter into a power purchase  
16 agreement within 60 days after the utility’s response.

17       “(6) If an electric utility’s response to a request made under sub-  
18 section (4) of this section indicates that the eligible generator’s project  
19 cannot be connected to the electric utility’s transmission system be-  
20 cause of lack of capacity or any other reason, the electric utility shall  
21 notify the requestor and the department and shall disclose all infor-  
22 mation necessary to verify that the qualifying project cannot be con-  
23 nected. If the department requests additional information to verify the  
24 response, the utility shall provide the requested information.

25       “(7) Based upon the information submitted by the electric utility  
26 under subsection (6) of this section, the department shall issue an or-  
27 der determining whether the qualifying project can be connected to  
28 the utility’s transmission system. If the department finds that the  
29 project can be connected to the utility’s transmission system, the  
30 utility shall enter into a power purchase agreement with the eligible

1 generator within 60 days after the order is issued.

2 “(8) An order issued by the department under subsection (7) of this  
3 section is subject to review as a contested case under ORS chapter 183.

4 “SECTION 3. Guaranteed prices. (1) An electric utility shall pay  
5 eligible generators the prices established by the State Department of  
6 Energy under this section for categories of qualifying projects for the  
7 following guaranteed periods:

8 “(a) Biomass - capacity up to and including 150 kilowatts, for 20  
9 years;

10 “(b) Biomass - capacity above 150 kilowatts up to and including 500  
11 kilowatts, for 20 years;

12 “(c) Biomass - capacity above 500 kilowatts up to and including five  
13 megawatts, for 20 years;

14 “(d) Biomass - capacity above five megawatts up to and including  
15 20 megawatts, for 20 years;

16 “(e) Hydroelectric - capacity up to and including 500 kilowatts, for  
17 30 years;

18 “(f) Hydroelectric - capacity above 500 kilowatts up to and including  
19 10 megawatts, for 30 years;

20 “(g) Hydroelectric - capacity above 10 megawatts up to and includ-  
21 ing 20 megawatts, for 15 years;

22 “(h) Solar photovoltaic rooftop - capacity up to and including 30  
23 kilowatts, for 20 years;

24 “(i) Solar photovoltaic rooftop - capacity above 30 kilowatts up to  
25 and including 100 kilowatts, for 20 years;

26 “(j) Solar photovoltaic rooftop - capacity above 100 kilowatts up to  
27 and including one megawatt, for 20 years;

28 “(k) Solar photovoltaic open field - capacity up to and including one  
29 megawatt, for 20 years;

30 “(L) Solar photovoltaic facade cladding - capacity up to and in-

1 cluding one megawatt, for 20 years;

2 “(m) Offshore wind - base wind project with capacity up to and in-  
3 cluding 20 megawatts, for 20 years;

4 “(n) Offshore wind - other than base wind project with capacity up  
5 to and including 20 megawatts, for 20 years;

6 “(o) Onshore wind - base wind project with capacity up to and in-  
7 cluding 20 megawatts, for 20 years;

8 “(p) Onshore wind - other than base wind project with capacity up  
9 to and including 20 megawatts, for 20 years; and

10 “(q) Small turbine wind project with capacity up to and including  
11 20 megawatts, for 20 years.

12 “(2) The department shall set the prices paid per kilowatt hour by  
13 electric utilities to eligible generators for qualifying projects based  
14 upon:

15 “(a) The costs of installation reflecting the prevailing rate of wage,  
16 as determined under ORS 279C.815 for the locality, as defined under  
17 ORS 279C.800, where the qualifying project is located;

18 “(b) The costs of generation;

19 “(c) Available tax and other incentives under federal programs, in-  
20 cluding a differential rate for nontaxable entities that cannot benefit  
21 from federal tax incentives; and

22 “(d) A rate of return for eligible generators of between five and  
23 seven percent.

24 “(3) The department shall adjust the prices set in subsection (2) of  
25 this section by a percentage equal to 60 percent of the annual adjust-  
26 ment for the previous calendar year to the Consumer Price Index  
27 (Portland area - all items) as published by the Bureau of Labor Sta-  
28 tistics of the United States Department of Labor for the Portland,  
29 Oregon, area.

30 “(4) Based on the information provided in reports filed under sec-

1 tion 8 of this 2009 Act, the State Department of Energy may revise the  
2 prices established under this section and may establish new categories  
3 of qualifying projects that use renewable energy sources as described  
4 in ORS 469A.025. Price revisions made under this subsection may not  
5 be applied to a power purchase agreement existing between an electric  
6 utility and an eligible generator at the time of the price revision. The  
7 department may revise energy prices based on:

8 “(a) Maintenance of a rate of return for eligible generators from  
9 five to seven percent;

10 “(b) Prevention of unnecessary costs to ratepayers; and

11 “(c) The impact of technological advances and changes in the price  
12 of inputs used in qualifying projects.

13 “SECTION 4. Renewable energy certificates. An electric utility  
14 purchasing electricity from an eligible generator under sections 1 to 8  
15 of this 2009 Act owns any renewable energy certificates created under  
16 ORS 469A.130 that are attributable to the purchased electricity.

17 “SECTION 5. Restrictions on eligible generators. (1) An eligible  
18 generator that enters into a power purchase agreement under sections  
19 1 to 8 of this 2009 Act may not:

20 “(a) Receive energy conservation tax credits for projects certified  
21 under ORS 469.185 to 469.225; or

22 “(b) Receive moneys from public purpose charges under ORS 757.612  
23 or 757.687.

24 “(2) Eligible generators may not divide qualifying projects for the  
25 purpose of qualifying for a higher price under section 3 of this 2009  
26 Act.

27 “SECTION 6. Reimbursement of electric utilities for above-market  
28 costs. (1) An electric utility must reimburse an eligible generator for  
29 electricity purchased under a power purchase agreement entered into  
30 under sections 1 to 8 of this 2009 Act at the price per kilowatt hour

1 established under section 3 of this 2009 Act.

2 “(2) An electric utility shall provide an annual report to the State  
3 Department of Energy estimating the amount of electricity the utility  
4 anticipates purchasing in subsequent years under sections 1 to 8 of this  
5 2009 Act, and the type of eligible generators that will produce that  
6 electricity.

7 “(3) The department shall aggregate all electric utility reports and  
8 use this information to set a uniform statewide surcharge rate on all  
9 electricity bills. The department may include reasonable administra-  
10 tive costs in its calculation of the surcharge amount. All electric  
11 utilities must collect the surcharge.

12 “(4) An electric utility shall remit the surcharges collected under  
13 this section to the department for deposit in the Renewable Energy  
14 Payment Fund established under section 7 of this 2009 Act on a  
15 monthly basis.

16 “(5) An electric utility purchasing electricity from an eligible gen-  
17 erator may apply on a monthly basis to the department for re-  
18 imbursement of energy costs that are above:

19 “(a) The costs allowed an electric utility by the Public Utility  
20 Commission as part of a determination of allowed rates; or

21 “(b) The combined average cost of purchased or self-generated  
22 electricity for a consumer-owned utility as defined in ORS 757.270.

23 “(6) Upon presentation of an application under subsection (5) of this  
24 section and investigation of its contents, the department shall reim-  
25 burse the electric utility for the above-market costs associated with  
26 the purchase of electricity from eligible generators with funds from  
27 the Renewable Energy Payment Fund.

28 “(7) An application for reimbursement may not be made by an  
29 electric utility under this section for any cost incurred more than 12  
30 months before the application is submitted.

1       **SECTION 7. Renewable Energy Payment Fund.** The Renewable  
2 Energy Payment Fund is established, separate and distinct from the  
3 General Fund. All moneys received by the State Department of Energy  
4 under section 6 of this 2009 Act shall be deposited in the Renewable  
5 Energy Payment Fund and are continuously appropriated to the de-  
6 partment for the purpose of reimbursement payments under section 6  
7 of this 2009 Act. Interest earned by the fund shall be credited to the  
8 fund.

9       **SECTION 8. Annual reports by the State Department of Energy.**  
10 Before December 31 of every year, the State Department of Energy  
11 shall file a report with the Legislative Assembly in the manner pro-  
12 vided by ORS 192.245 on the implementation of sections 1 to 8 of this  
13 2009 Act. The report must include:

14       “(1) The number of new eligible generators in this state and the  
15 environmental, social and economic effects of the addition of the  
16 electricity generated by those eligible generators, including but not  
17 limited to the effects on progress toward achieving the requirements  
18 for the renewable portfolio standards under ORS chapter 469A and  
19 greenhouse gas emissions reduction goals under ORS 468A.205;

20       “(2) The actual kilowatt hours of electricity generated under  
21 sections 1 to 8 of this 2009 Act by technology type, application and  
22 project size;

23       “(3) An estimate of the number of jobs created under sections 1 to  
24 8 of this 2009 Act;

25       “(4) Changes to the prices payable to eligible generators under sec-  
26 tion 3 of this 2009 Act;

27       “(5) Recommendations for any appropriate legislative changes;

28       “(6) Recommendations about power lines and transmission lines  
29 that need to be upgraded to increase the generation of renewable en-  
30 ergy in Oregon and how those upgrades should be undertaken;

