

SB 838-2
(LC 3152-3)
3/15/07 (DH/ps)

**PROPOSED AMENDMENTS TO
SENATE BILL 838**

1 In line 2 of the printed bill, after "electricity" insert "; creating new
2 provisions; amending ORS 757.612 and 757.687; and declaring an
3 emergency".

4 After line 2, insert:

5 "Whereas the Legislative Assembly finds that it is in the interest of the
6 state to promote research and development of new renewable energy sources
7 in Oregon; and

8 "Whereas the Legislative Assembly finds that it is necessary for Oregon's
9 electric utilities to decrease their reliance on fossil fuels for electricity
10 generation and to increase their use of renewable energy sources; and

11 "Whereas this 2007 Act may be cited as the Oregon Renewable Energy
12 Act; and

13 "Whereas the Oregon Renewable Energy Act provides a comprehensive
14 renewable energy policy for Oregon, enabling industry, government and all
15 Oregonians to accelerate the transition to a more reliable and more afford-
16 able energy system; now, therefore,".

17 Delete lines 4 through 12 and insert:
18

"DEFINITIONS

19
20
21 **"SECTION 1. Definitions. As used in sections 1 to 24 of this 2007**

22 **Act:**

1 “(1) ‘Banked renewable energy certificate’ means a bundled or un-
2 bundled renewable energy certificate that is not used by an electric
3 utility to comply with a renewable portfolio standard in a calendar
4 year and that is carried forward for the purpose of compliance with a
5 renewable portfolio standard in a subsequent year.

6 “(2) ‘BPA electricity’ means electricity provided by the Bonneville
7 Power Administration, including all electricity from the Federal
8 Columbia River Power System hydroelectric projects and other elec-
9 tricity acquired by the Bonneville Power Administration by contract.

10 “(3) ‘Bundled renewable energy certificate’ means a renewable en-
11 ergy certificate for qualifying electricity that is acquired by an electric
12 utility by:

13 “(a) Trade, purchase or other transfer of electricity that includes
14 the certificate that was issued for the electricity; or

15 “(b) Generation by the utility of the electricity for which the cer-
16 tificate was issued.

17 “(4) ‘Compliance year’ means the calendar year for which the elec-
18 tric utility seeks to establish compliance with the renewable portfolio
19 standard applicable to the utility in the compliance report submitted
20 under section 19 of this 2007 Act.

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

24 “(6) ‘Electric company’ has the meaning given that term in ORS
25 757.600.

26 “(7) ‘Electricity service supplier’ has the meaning given that term
27 in ORS 757.600.

28 “(8) ‘Electric utility’ has the meaning given that term in ORS
29 757.600.

30 “(9) ‘Qualifying electricity’ means electricity described in section 2

1 of this 2007 Act.

2 “(10) ‘Renewable energy source’ means a source of electricity de-
3 scribed in section 4 of this 2007 Act.

4 “(11) ‘Retail electricity consumer’ means a retail electricity con-
5 sumer, as defined in ORS 757.600, that is located in Oregon.

6 “(12) ‘Unbundled renewable energy certificate’ means a renewable
7 energy certificate for qualifying electricity that is acquired by an
8 electric utility by trade, purchase or other transfer without acquiring
9 the electricity for which the certificate was issued.

10
11 “QUALIFYING ELECTRICITY
12

13 “SECTION 2. Qualifying electricity. (1) Except as provided in sub-
14 section (2) of this section, and subject to section 15 of this 2007 Act,
15 electricity generated from a renewable energy source may be used to
16 comply with a renewable portfolio standard only if the facility that
17 generates the electricity meets the requirements of section 3 of this
18 2007 Act.

19 “(2) Any electricity that the Bonneville Power Administration has
20 designated as environmentally preferred power, or has given a similar
21 designation for electricity generated from a renewable resource, may
22 be used to comply with a renewable portfolio standard.

23 “SECTION 3. Qualifying electricity; age of generating facility. (1)
24 Except as provided in this section, electricity may be used to comply
25 with a renewable portfolio standard only if the electricity is generated
26 by a facility that becomes operational on or after January 1, 1995.

27 “(2) Electricity from a generating facility, other than a hydroelec-
28 tric facility, that became operational before January 1, 1995, may be
29 used to comply with a renewable portfolio standard if the electricity
30 is attributable to capacity or efficiency upgrades made on or after

1 January 1, 1995.

2 “(3) Electricity from a hydroelectric facility that became opera-
3 tional before January 1, 1995, may be used to comply with a renewable
4 portfolio standard if the electricity is attributable to efficiency up-
5 grades made on or after January 1, 1995. If an efficiency upgrade is
6 made to a Bonneville Power Administration facility, only that portion
7 of the electricity generation attributable to Oregon’s share of the
8 electricity may be used to comply with a renewable portfolio standard.

9 “(4) Subject to the limit imposed by section 4 (5) of this 2007 Act,
10 electricity from a hydroelectric facility that is owned by an electric
11 utility and that became operational before January 1, 1995, may be
12 used to comply with a renewable portfolio standard if the facility is
13 certified as a low-impact hydroelectric facility on or after January 1,
14 1995, by a national certification organization recognized by the State
15 Department of Energy by rule.

16 “SECTION 4. Renewable energy sources. (1) Electricity generated
17 utilizing the following types of energy may be used to comply with a
18 renewable portfolio standard:

19 “(a) Wind energy.

20 “(b) Solar photovoltaic and solar thermal energy.

21 “(c) Wave, tidal and ocean thermal energy.

22 “(d) Geothermal energy.

23 “(2) Except as provided in subsection (3) of this section, electricity
24 generated from biomass and biomass byproducts may be used to com-
25 ply with a renewable portfolio standard, including but not limited to
26 electricity generated from:

27 “(a) Organic human or animal waste;

28 “(b) Spent pulping liquor;

29 “(c) Forest or rangeland woody debris from harvesting or thinning
30 conducted to improve forest or rangeland ecological health and to re-

1 duce uncharacteristic stand replacing wildfire risk;

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

4 “(e) Agricultural residues;

5 “(f) Dedicated energy crops; and

6 “(g) Biogas produced from organic matter, wastewater, anaerobic
7 digesters or municipal solid waste.

8 “(3) Electricity generated from combustion of biomass may not be
9 used to comply with a renewable portfolio standard if any of the
10 biomass used in generating the electricity includes:

11 “(a) Municipal solid waste; or

12 “(b) Wood that has been treated with chemical preservatives such
13 as creosote, pentachlorophenol or chromated copper arsenate.

14 “(4) Electricity generated by a hydroelectric facility may be used to
15 comply with a renewable portfolio standard if:

16 “(a) The facility is located outside any protected area designated
17 by the Pacific Northwest Electric Power and Conservation Planning
18 Council as of July 23, 1999, or any area protected under the federal
19 Wild and Scenic Rivers Act, Public Law 90-542, or the Oregon Scenic
20 Waterways Act, ORS 390.805 to 390.925; or

21 “(b) The facility is in operation on the effective date of this 2007
22 Act and the electricity is attributable to efficiency upgrades made to
23 the facility on or after January 1, 1995.

24 “(5) Up to 50 average megawatts of electricity per year generated
25 by an electric utility from certified low-impact hydroelectric facilities
26 described in section 3 (4) of this 2007 Act may be used to comply with
27 a renewable portfolio standard, without regard to the number of cer-
28 tified facilities operated by the electric utility or the generating ca-
29 pacity of those facilities.

30 “(6) Electricity generated from hydrogen gas derived from any

1 source of energy described in subsections (1) to (5) of this section may
2 be used to comply with a renewable portfolio standard.

3 “(7) If electricity generation employs multiple energy sources, that
4 portion of the electricity generated that is attributable to energy
5 sources described in subsections (1) to (6) of this section may be used
6 to comply with a renewable portfolio standard.

7 “(8) The State Department of Energy by rule may approve energy
8 sources other than those described in this section that may be used
9 to comply with a renewable portfolio standard. The department may
10 not approve petroleum, natural gas, coal or nuclear fission as an en-
11 ergy source that may be used to comply with a renewable portfolio
12 standard.

13 14 “RENEWABLE PORTFOLIO STANDARDS

15
16 “SECTION 5. Applicable standard. (1) Electric utilities must comply
17 with the applicable renewable portfolio standard described in section
18 6 or 7 of this 2007 Act.

19 “(2) Electricity service suppliers must comply with the renewable
20 portfolio standard established under section 9 of this 2007 Act.

21 “SECTION 6. Large utility renewable portfolio standard. (1) The
22 large utility renewable portfolio standard imposes the following re-
23 quirements on an electric utility that makes sales of electricity to re-
24 tail electricity consumers in an amount that equals one percent or
25 more of all electricity sold to retail electricity consumers:

26 “(a) At least five percent of the electricity sold by the utility to
27 retail electricity consumers in each of the calendar years 2011, 2012,
28 2013 and 2014 must be qualifying electricity;

29 “(b) At least 15 percent of the electricity sold by the utility to retail
30 electricity consumers in each of the calendar years 2015, 2016, 2017, 2018

1 and 2019 must be qualifying electricity;

2 “(c) At least 20 percent of the electricity sold by the utility to retail
3 electricity consumers in each of the calendar years 2020, 2021, 2022, 2023
4 and 2024 must be qualifying electricity; and

5 “(d) At least 25 percent of the electricity sold by the utility to retail
6 electricity consumers in calendar year 2025 and subsequent calendar
7 years must be qualifying electricity.

8 “(2) If, on the effective date of this 2007 Act, an electric utility
9 makes sales of electricity to retail electricity consumers in an amount
10 that equals less than one percent of all electricity sold to retail elec-
11 tricity consumers, but in any three consecutive calendar years there-
12 after makes sales of electricity to retail electricity consumers in
13 amounts that average one percent or more of all electricity sold to
14 retail electricity consumers, the utility is subject to the renewable
15 portfolio standard described in subsection (3) of this section. The util-
16 ity becomes subject to the standard described in subsection (3) of this
17 section in the calendar year following the three-year period during
18 which the utility makes sales of electricity to retail electricity con-
19 sumers in amounts that average one percent or more of all electricity
20 sold to retail electricity consumers.

21 “(3) An electric utility described in subsection (2) of this section
22 must comply with the following renewable portfolio standard:

23 “(a) Beginning in the fourth calendar year after the calendar year
24 in which the utility becomes subject to the standard described in this
25 subsection, at least five percent of the electricity sold by the utility
26 to retail electricity consumers in a calendar year must be qualifying
27 electricity;

28 “(b) Beginning in the 10th calendar year after the calendar year in
29 which the utility becomes subject to the standard described in this
30 subsection, at least 15 percent of the electricity sold by the utility to

1 retail electricity consumers in a calendar year must be qualifying
2 electricity;

3 “(c) Beginning in the 15th calendar year after the calendar year in
4 which the utility becomes subject to the standard described in this
5 subsection, at least 20 percent of the electricity sold by the utility to
6 retail electricity consumers in a calendar year must be qualifying
7 electricity; and

8 “(d) Beginning in the 20th calendar year after the calendar year in
9 which the utility becomes subject to the standard described in this
10 subsection, at least 25 percent of the electricity sold by the utility to
11 retail electricity consumers in a calendar year must be qualifying
12 electricity.

13 “SECTION 7. Small electric utilities. (1) Except as provided in this
14 section, an electric utility that makes sales of electricity to retail
15 electricity consumers in an amount that equals less than one percent
16 of all electricity sold to retail electricity consumers is not subject to
17 sections 1 to 24 of this 2007 Act.

18 “(2) Beginning in calendar year 2025, at least five percent of the
19 electricity sold to retail electricity consumers in a calendar year by
20 an electric utility described in subsection (1) of this section must be
21 qualifying electricity.

22 “(3) The exemption provided by subsection (1) of this section ter-
23 minates if an electric utility, or a joint operating entity that includes
24 the utility as a member, acquires electricity from an electricity gen-
25 erating facility that uses coal as an energy source or makes an in-
26 vestment in a new electricity generating facility that uses coal as an
27 energy source. This subsection does not apply to:

28 “(a) A wholesale market purchase by an electric utility for which
29 the energy source for the electricity is not known;

30 “(b) BPA electricity; or

1 “(c) A renewal or replacement contract for a contract for purchase
2 of electricity entered into before the effective date of this 2007 Act.

3 “(4) The exemption provided by subsection (1) of this section ter-
4 minates if at any time after the effective date of this 2007 Act a
5 consumer-owned utility acquires service territory of an electric com-
6 pany without the consent of the electric company.

7 “(5) Beginning in the calendar year following the year in which an
8 electric utility’s exemption terminates under subsection (3) or (4) of
9 this section, the utility is subject to the renewable portfolio standard
10 described in section 6 (3) of this 2007 Act and related provisions of
11 sections 1 to 24 of this 2007 Act.

12 “(6) The provisions of this section do not affect the requirement
13 that electric utilities offer a green power rate under section 23 of this
14 2007 Act.

15 “SECTION 8. Exemptions from compliance with renewable portfolio
16 standard. (1) Electric utilities are not required to comply with the
17 renewable portfolio standards described in sections 6 and 7 of this 2007
18 Act to the extent that:

19 “(a) Compliance with the standard would require the utility to ac-
20 quire electricity in excess of the utility’s projected electrical load re-
21 quirements in any calendar year; and

22 “(b) Acquiring the additional electricity would require the utility
23 to substitute qualifying electricity for electricity derived from an en-
24 ergy source other than coal, natural gas or petroleum.

25 “(2)(a) Electric utilities are not required to comply with the large
26 utility renewable portfolio standard to the extent that compliance
27 would require the utility to substitute qualifying electricity for elec-
28 tricity available to the utility under contracts for electricity from
29 dams that are owned by Washington public utility districts and are
30 located between the Grand Coulee Dam and the Columbia River’s

1 junction with the Snake River. The provisions of this subsection apply
2 only to contracts entered into before the effective date of this 2007 Act
3 and to renewal or replacement contracts for contracts entered into
4 before the effective date of this 2007 Act.

5 “(b) If a contract described in paragraph (a) of this subsection ex-
6 pires and is not renewed or replaced, the utility must comply, in the
7 calendar year following the expiration of the contract, with the
8 renewable portfolio standard applicable to the utility under section 6
9 of this 2007 Act.

10 “(3) A consumer-owned utility is not required to comply with a
11 renewable portfolio standard under section 6 of this 2007 Act to the
12 extent that compliance would require the utility to reduce the utility’s
13 purchases of the lowest priced electricity from the Bonneville Power
14 Administration pursuant to section 5 of the Pacific Northwest Electric
15 Power Planning and Conservation Act of 1980, P.L. 96-501, as in effect
16 on the effective date of this 2007 Act. The exemption provided by this
17 subsection applies only to firm energy commitments of BPA electricity
18 that the Bonneville Power Administration has assured will be available
19 to a utility to meet agreed portions of the utility’s load requirements
20 for a defined period of time.

21 “SECTION 9. Renewable portfolio standard for electricity service
22 suppliers. An electricity service supplier must meet the requirements
23 of the renewable portfolio standards that are applicable to the electric
24 utilities that serve the territories in which the electricity service sup-
25 plier sells electricity to retail electricity consumers. The Public Utility
26 Commission shall establish procedures for implementation of the
27 renewable portfolio standards for electricity service suppliers that sell
28 electricity in the service territory of an electric company. If an elec-
29 tricity service supplier sells electricity in territories served by more
30 than one electric company, the commission may provide for an ag-

