**SITING POLICY CONCEPT OUTLINE**

**Vehicles:** HB 2989 and HB 3181 with support for other relevant siting bills that intersect with this work. The current bills are study placeholders for the work that the siting table has done. All of the below will be amended into one or both of the bills depending on balance associated with policy versus fiscal impact. Both bills were introduced to allow for elements of the below outline to be split between bills, especially to avoid large fiscal items from weighing down pure policy changes. There are also other siting policy concepts that may overlap with this work.

**Missing Elements and Considerations:** This outline is thin on support for conservation/habitat work and support for working lands and landowners. If there are additional elements to include to these ends, please share them.

This is a large body of work with a large price tag which is not an ideal match for a lean legislative session, but nonetheless all important work. Not everything may be viable or realistic and it will be important to strike a balance between the essential elements in one bill vehicle and the needed but nonessential elements in the second. It is also likely that not everything can be moved forward.

**HB 2989-1 and/or HB 3181-1**

Relating to Renewable Energy Development

*\* This relating to clause (same for both bills) cannot be changed and all associated amendment content must fit within this Relating to clause*

**Outline:**

* SECTION 1: Definitions
  + Blank at present; will be populated with drafting
* [Identifying Lower Conflict Areas for Renewable Energy and Transmission Siting](#dzxo6ypj5xuw)
  + [SECTION 2: Creates Lower Conflict Renewable Energy and Transmission Development Program](#ncxnjp705dgs)
  + [SECTION 3: Establishes Advisory Committee to support Lower Conflict Renewable Energy and Transmission Development Program](#yi99f4wft9fj)
  + [SECTION 4: Expands existing or creates new DLCD funding for counties to engage with the siting process including participating in the Lower Conflict Renewable Energy and Transmission Development Program](#z8wd536qcox1)
  + [SECTION 5: Directs and funds ODOE to update the ORESA tool with new data](#algntq6e4ve9)
* [Conditions for Expedited Permitting in Siting](#bkt0i0wl9slk)
  + [SECTION 6: Conditions for expedited siting for renewable energy projects](#4mwzzvv2ekue)
  + [SECTION 7: Conditions for expedited siting for transmission](#ngf5pyoc485f)
  + [SECTION 8: Directs ODOE to engage in Tribal consultation to improve siting process](#a2zq8y261920)
* [Allowing Stand-Alone Battery Storage to Be Permitted Through EFSC and County Siting Processes](#iazze4ktwl6x)
  + SECTION 9 (see above link)
* [Land Use Updates](#esuena2viib7)
  + [SECTION 10: Goal 13 changes](#avsu4dyc7ozm)
  + [SECTION 11: Goal exception process](#tk9bcze5k35)
    - There are other concepts that may be best to move this work
* [Capacity for Local Governments, Tribal Governments, and Communities](#8sdhvv6uy3m)
  + [SECTION 12: Directs DLCD to convene a County Siting Workgroup; a third party may be contracted to administer this work](#djobbcp69a6x)
  + [SECTION 13: Counties are allowed to combine permit review processes or pool resources related to siting](#jtfh3bclmpub)
  + [SECTION 14: Resources for Tribal governments](#vvs3008tvyjk)
  + [SECTION 15: ODOE Community Siting Support positions](#8iowwgpudtp)
* [Landowner Compensation and Support](#7p1aihhqzi8v)
  + SECTION 16 (see above link)
* [Future/Outside Legislation Ideas](#eug2rcvpp1y7)

**Contents:**

SECTION 1: Definitions referenced in statute and new definitions used throughout the amendment language

**CAPTION 1:** **Identifying Lower Conflict Areas for Renewable Energy and Transmission Siting**

*SUMMARY:* *Develop and resource a Lower Conflict Renewable Energy and Transmission Development Program through which counties, communities, and Tribal governments can identify and map areas of lower conflict for renewable energy and transmission siting. Projects sited in these areas will be given expedited permitting processes.*

*STATUTORY CHANGES: None*

*FISCAL IMPACT: ASsociated with agency capacity to administer and support the program and resources to support counties around renewable energy and transmission siting (expanding existing DLCD programs).*

*QUESTIONS FOR DRAFTING:*

* *What does this look like in practice and what sideboards are necessary?*
* *How long do we think this should take?*
* *Who is/are the right convenor(s)?*
* *What types of organizations and communities should be represented in the process?*
* *What would “carrots” be for siting in lower conflict areas?*
* *What can we learn from BLM preferred corridor, Green Corridor, and other related projects to maximize success?*
* *How can this work maximize local control but not create additional burdens or unfunded mandates?*
* *How can this work balance local input and control with statewide and regional perspectives on energy needs and relative impacts?*
* *What is the interaction between lower conflict renewable energy areas and lower conflict transmission corridors?*
* *How far from right of way do effects have to be considered – view, effect on wildlife, effect on agriculture?*
* *How are the affected communities included in and notified of decisions?*
* *What roles do other agencies have in this work?*
* *How does this interact with any energy strategy work?*
* *Is there need to identify no-go or “higher conflict”/higher bar areas?*
* *How does this interact with the certificate of public convenience/necessity process at PUC?*
* *What are the intercounty (opt in/opt out)? How does that work with Tribes – seems like make the State the Tribes’ planners? How can a county interact with multiple tribes? What is the inter county-state interaction component?*
* *How does this interact with the comprehensive planning process?*

*CONTENTS:*

* SECTION 2: Directs DLCD to administer a Lower Conflict Renewable Energy and Transmission Development Program through which counties may voluntarily engage in a collaborative process with local communities, developers, utilities, and other interested parties, including local/regional state agency staff.
  + Counties that participate in the program will also be directed to follow Tribal consultation requirements as identified through the process in SECTION 3..
  + The purpose of the process is to identify “Renewable Energy Development Zones,” defined as areas that present fewer existing land uses, conservation, or community needs that might conflict with renewable energy development and are suitable sites based on resource potential and likelihood of current or future transmission access, and
  + “Transmission Development Corridors,”[[1]](#footnote-0) defined as areas through the county through which a transmission line can pass to connect areas of current and expected future energy demand with current and expected future areas of renewable electricity generation, reduced impact to local communities and environment, maximum benefit, and maximum potential to develop renewable energy projects in Renewable Energy Zones that could interconnect to that transmission.
  + As part of the local process, counties will be required to update their Goal 5 inventories.
  + Counties who participate in the Lower Conflict Renewable Energy Development program will have access to planning resources through DLCD to:
    - Conduct local collaborative processes
    - Hire facilitators or obtain other technical assistance to support these processes outside normal county planning functions
    - Update Goal 5 inventories
    - ANYTHING ELSE IDENTIFIED BY THE SITING TABLE
  + Multiple counties can pool resources and work together on a single process.
  + Before an area is designated and mapped, landowners in that area will be notified and given the opportunity to give comment/request to be excluded.
  + An area cannot be designated if it is opposed by a Tribal government.
  + Members of the collaborative process will make recommendations to a county’s Commission to adopt the Renewable Energy Development Zones and the Transmission Development Corridors and the Commission will vote to adopt or reject each area.
  + Renewable Energy Development Zones and Transmission Development Corridors will be mapped by the Oregon Department of Energy through the Oregon Renewable Energy Siting Assessment tool.
* DLCD may enter into intergovernmental agreements with the State Department of Energy, The Department of Fish and Wildlife, The State Department of Agriculture, the Water Resources Department, the Department of State Lands, and the State Historic Preservation Office to offer technical assistance to counties.
* DLCD will connect relevant federal agencies with county processes as appropriate.

* SECTION 3: Before administering the process in SECTIOn 2, DLCD may convene an advisory committee to advise on guidance and structure for the Lower Conflict Renewable Energy Development program – but not determinations about what is and is not lower conflict
  + Work for the advisory committee includes:
    - identifying regulatory barriers to this work and make recommendations to the legislature
    - Recommendations for expedited permitting processes associated with this work
    - Recommendations for characteristics of “lower conflict” areas
    - Recommendations for technical assistance resources to support county processes
    - Leveraging utility distribution system plans to identify and designating areas that could benefit from increased distributed energy resources development or small- or community-scale development and serve as ways to create community benefit, serve load and create generation close to load, and reduce needed transmission capacity
    - Consultation with and resourcing for Tribal governments as appropriate and needed – rather than a single Tribal government seat that cannot represent all Tribal governments who have historic and cultural or trust resources in Oregon, DLCD will be directed to engage in consultation and bring this feedback into the process or offer seats on the advisory body as requested by Tribal governments.
    - ANYTHING ELSE IDENTIFIED BY THE SITING TABLE
* Membership:
  + Each county that will experience significant siting demand will be offered a seat as designated by that county’s Commission
  + Renewable energy developers
  + Transmission providers in this state
  + Regional planning entities
  + IOUs and COUs
  + Labor representative representing the clean energy workforce;
  + Representatives of:
  + Environmental justice communities;
  + Natural and working lands and fisheries
  + Habitat conservation, preservation, and restoration
  + Land use experts
  + ANYONE ELSE IDENTIFIED BY THE SITING TABLE
* Consulted entities:
* Tribal governments with historic and cultural or trust resources in Oregon
* Relevant state agencies
* EFSC
* Relevant federal agencies
  + Including Bonneville Power Administration
* ANYONE ELSE IDENTIFIED BY THE SITING TABLE

* SECTION 4: Expands existing DLCD funding programs (or creates a new funding program) that can be utilized by county governments for planning work associated with renewable energy development including:
* The lower conflict siting program created in SECTION 2
  + Or participating in the advisory process
* Updating Goal 5 inventories
* Additional staffing needs associated with reviewing permit applications
* Technical assistance associated with engaging in the siting process
* Develop community benefit plans or processes related to existing or anticipated PILT/SIP funds
* ANYTHING ELSE IDENTIFIED BY THE SITING TABLE

* SECTION 5: Directs and funds ODOE to update the ORESA tool with new federal inventories or mapping resources and other regional, state, and local mapping projects (such as environmental justice mapping) as appropriate.

**CAPTION 2: Expedited Process for Siting Permits**

*SUMMARY:* *Identifies scenarios in which expedited process may be granted through EFSC (county-level expediting will be sought through goal exception revisions). These include:*

* *Renewable energy projects with no acreage/MW limit:*
  + *That are in designated lower conflict areas (see above caption)*
  + *That have a negotiated community benefits agreement with impacted communities and a wildlife mitigation plan that has been approved by ODFW*
  + *That are below the MW labor standards thresholds set in HB 2021 and it can demonstrate that it meets those labor standards*
  + *That have engaged in deeper consultation or partnership with Tribal governments*
  + *That are developed by a Tribal government on Tribally-held lands*
* *Transmission:*
  + *Reconductoring/upgrading lines to 500kV*
  + *Siting in existing rights of way*
  + *Siting in lower conflict corridors*
  + *That have a negotiated community benefits agreement with impacted communities and a wildlife mitigation plan that has been approved by ODFW*

*STATUTORY CHANGES: EFSC statues, adding conditions for expediting permitting*

*FISCAL IMPACT: ASsociated with any agency rulemaking and administration*

*QUESTIONS FOR DRAFTING:*

* *What are the goals of expedited process?*
* *What is the rulemaking for this/likely fiscal and who administers/staffs the rulemaking*?
* *Should community-based renewable energy projects/community-developed projects get expedited process? Under what conditions?*
* *What if any additional resources could help permitting review move faster?*
* *What exceptions might be necessary to limit negative effects on sensitive and already impacted areas?*
  + *What input/sign off/or lack of opposition is needed from landowners to ensure no one gets rolled?*
* *How is a community benefits agreement defined?*
* *What are the implications for mitigation requirements?*
* Transmission:
  + *What steps could be shortened or eliminated for reconductoring, given that in most cases right-of-way will need to be widened?*
  + *Should a community benefits agreement be required for all transmission siting?*
  + *What are the rights of way parameters?*
  + *Are additional incentives needed for line upgrades?*

*CONTENTS:*

* SECTION 6: A renewable energy project (with no acreage or MW limit) that seeks to go through the EFSC process may receive expedited permitting in any of the following scenarios:
  + It is sited in a Renewable Energy Development Zones as defined in SECTION 2
  + The developer has negotiated a Community Benefits Agreement as defined in SECTION 1
  + The project is below the MW thresholds set in HB 2021 for labor standards, but can demonstrate voluntary compliance
  + That have engaged in deeper consultation or partnership with Tribal governments with impacted historic, cultural, and trust resources in the areas of siting (engagement before selecting a site, benefits that flow to the Tribal government and its Tribal members, and/or any other guidelines as defined through consultation between ODOE/EFSC and Tribal governments in SECTIOn 8)
  + That is developed by or in partnership with a Tribal government on Tribally-held lands or on trust lands.

* SECTION 7: A transmission project may receive expedited permitting in any of the following scenarios:
  + It is sited in a Transmission Development Corridor as defined in SECTION 2 and eminent domain will not been used to acquire land
  + Is sited in certain right of ways (e.g. within 500 feet of highway corridors) for expedited permitting
  + Is a line that is reconductored or upgraded to 500,000 volts.
    - Change the limit for exemption of upgraded transmission lines in an existing right-of-way from “to 230,000 volts” to ”230,000 volts or more”in ORS 469.300

* SECTION 8: Directs ODOE and EFSC to operationalize feedback obtained from existing processes for engagement and consultation with Tribal governments and to engage in new work as needed to identify agreed upon rules to streamline Tribal engagement with siting and incentivize developers to engage before a site is selected, after studies, and to create partnership or benefit opportunities, or to address other needs to improve Tribal consultation and benefit in the siting process.
  + When does it happen? How often? – not adding to burden on Tribal governments or developers? What is the role of the State?
  + Also directs ODOE to identify pathways for working with Tribal governments outside the nine federally-recognized Tribes of Oregon who have historic, cultural, or trust resources that may be impacted by projects sited in Oregon

**CAPTION 3: Changes to EFSC Statute**

*SUMMARY:* *Currently there is no mechanism to allow for a stand-alone storage project to be sited through either the EFSC or county-level siting process in Oregon. This small technical fix, requested by Galltan Public Affairs and their client will ensure that there is a clear pathway for these needed projects.*

*STATUTORY CHANGES: EFSC statute; county siting/land use statutes*

*FISCAL IMPACT: Associated with any agency rulemaking and administration*

*QUESTIONS FOR DRAFTING:*

* *Is this also an opportunity to address regulatory and statutory barriers for islanded or other small-scale projects to supply power to the local grid?*
  + *This may be addressed in a separate resilience bill*

*CONTENTS:*

* SECTION 9: The following language is added to ORS 215.283 and ORS 469.300 to allow battery storage facilities to be sited. Battery Energy Storage System (BESS) is defined as:
  + “Battery energy storage system” (BESS) means an energy storage system that can store and deploy generated energy, typically a group of batteries that charge (i.e., collect energy) and store electrical energy from the grid or energy generation facility and then discharge that energy at a later time to provide electricity or other grid services when needed. BESS generally consist of batteries, battery storage containers, on-site switchyard, inverters, associated interconnection transmission line, and supervisory control and data acquisition system.

**CAPTION 4: Land Use Updates**

*SUMMARY:* *Address needed updates to Goal 13 and the goal exception process to help expedite the siting process while not doing harm to high value farmland or other agriculture land and habitat.*

*STATUTORY CHANGES: Changes to goal language in statute/exceptions process language in statute*

*FISCAL IMPACT: Associated with any agency rulemaking and administration*

*QUESTIONS FOR DRAFTING:*

* *Subgroup of land use workgroup needs to help define approach if any to Goal 13*
* *How best to make space for other policy concepts that are also addressing this work?*
  + *Are there missing elements that could be moved here in a complimentary way?*

* SECTION 10: Goal 13 is revised or a process is created to revise Goal 13 to reflect climate and renewable energy
  + Goal is to help balance RE use of land w resource lands (goal 3, 4, etc.)

* (SECTION 11: Goal exception process
  + *New Sun is running separate bills that address theses issues – leave out of initial amendment*
    - Increasing the acreage for non-arable and marginally arable lands for approval by the county process from 1920 to \_\_\_\_\_\_\_\_ (updating HB2329)
    - HB 3180: Addresses goal exception process; changes to Goal 3 to provide a quick fix and promote siting in least conflict areas; similar to land use workgroup conversation – but broader and part of New Sun’s extensive work developing in central Oregon
      * Expediting Goal 3 exceptions for lands with water constraints, transmission infrastructure proximity, demonstration that land is not economically viable for production
        + Includes caps and leaves statutory and regulatory requirements in place (based on ORS 215.446)
      * Introduce and being reviewed by LC, but one-pager is coming
      * Reach out to Max Yoklic with thoughts, questions, or concerns
      * Introduced by Rep Helm; see if Helm will come to this group to speak as well
  + Goal 3 process streamlining discussed in smaller group. Ready for larger group. Related to water access, proximity to transmission, exploring how to look at land types, focused on Eastern Oregon
  + Parity between EFSC and County processes (such as thresholds)

**CAPTION 5: Capacity for Local Governments, Tribal Governments, and Communities**

*SUMMARY:* Building off the resources created for counties in SECTION 4, support coordination between local governments to share best practices and pool resources or processes to reduce strain on small planning departments. Support resources for Tribal governments to hire staff related to energy and engage in the siting process. Build ODOE staffing capacity to better work on the ground with communities, local and Tribal governments, and developers to improve relationship building, provide technical assistance, and problem solve.

*STATUTORY CHANGES: Creation of new programs and resources*

*FISCAL IMPACT: Creation of new programs, resources, and staffing capacity*

*QUESTIONS FOR DRAFTING:*

* *Are there additional county resources that are needed?*
* *Are there changes to PILT or SIP rules that can better and more equitably distribute funds to communities (ex. through participatory budgeting)?*
* *What is the appropriate agency or entity to support technical assistance and resources for Tribal governments? Are there existing programs that can be leveraged to avoid creating new programs?*
* *Does ODOE have capacity for additional staffing and community support? How does this tie into ODOE’s Community Navigator POP?*
* *How should ODFW be involved–e.g. for mitigation options and analysis?*
* *Are any federal funds including through IIJA or IRA a good fit for supporting county and/or agency capacity or contract needs?*

* SECTION 12: DLCD shall convene a County Siting Workgroup to serve as a space in which county planners, planning commissions, or Commissioners can share experiences, best practices, or strategies associated with navigating the siting process.
  + DLCD is given $\_\_\_\_\_\_\_\_ to administer this work for the next biennium
  + DLCD can contract with a third party to do this work

* SECTION 13: DLCD is directed to allow counties to pool resources and/or to create joint processes for processing county-level siting permits.
  + Ultimately individual Planning Commissions and County Commissions will still vote to approve or deny permits

* SECTION 14: \_\_\_\_\_\_\_\_\_ agency/program is given $\_\_\_\_\_\_\_\_ and directed to provide grants to Tribal governments.
  + Grants can be used for
    - Staff to navigate renewable energy and transmission siting as well as general energy needs
    - Technical assistance or contractors to support engagement or negotiation in the siting process
* SECTION 15: Creates ODOE Community Siting Support positions
* One siting navigator per Regional Solutions region
  + Could limit to high development areas/high development potential?
* Point of contact, connection, and support for local governments, Tribal governments, communities, and developers
* Able to coordinate with agencies like ODFW, DLCD, DSL, etc. to ensure good communication with projects and impacted communities to address questions or concerns
* Support for problem-solving along the way (ombuds-type role)
* Budget across staff positions for resources to support early engagement, coordination/partnership, capacity, etc.
  + Accessible to Tribal governments
  + Accessible to local governments
  + Accessible to CBOs/nonprofits, including conservation organizations
  + Accessible to landowners
  + Accessible to developers

**CAPTION 6: Landowner Compensation and Support**

*SUMMARY:* Improve consistency and value in community compensation for land leased, sold, or taken through eminent domain for the purposes of transmission development.

*STATUTORY CHANGES: Depends on structure*

*FISCAL IMPACT: Associated with any agency rulemaking and administration*

*QUESTIONS FOR DRAFTING:*

* *Is this a “study” item or can we review examples to propose a specific path forward?*
* *How does this relate to/overlap with Community Benefit Agreements (CBAs)?*
* *Is there similar work to be done for generation siting, and should these be combined or separate?*
* *Are there pathways to incentivize and support landowners with renewables projects as well?*
* SECTION 16: Improve consistency and value in community compensation for land leased, sold, or taken through eminent domain for the purposes of transmission development

**Future/Outside Legislation Ideas**

* Create a state transmission authority (WA Gov Inslee considering this)
* Advocating for dedicated energy/transmission staff in Gov-elect Kotek’s office (naming a state agency or office or person charged with accelerating the solutions to the planning and building of transmission by bringing about solutions that support regional decarbonization and regional resource adequacy and reduce the time for permitting of new transmission lines).
* Request the PNW federal legislators to apply pressure on the Bonneville Power Administration to utilize their additional 10 billion from the IIJA (up to 17 billion in total) in borrowing authority to increase and improve transmission capacity on their system. BPA's current plan is to use this additional borrowing authority to pay off debt.

1. Replicating [DLCD Green Corridor](https://www.oregon.gov/lcd/LAR/Pages/Green-Corridor.aspx) process in Morrow & Umatilla counties in other parts of the state to proactively identify preferred corridors [↑](#footnote-ref-0)