

# HOUSE BILL REPORT

## HB 2131

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**As Reported by House Committee On:**  
Technology, Telecommunications & Energy

**Title:** An act relating to the energy facility site evaluation council.

**Brief Description:** Regarding applications submitted to the energy facility site evaluation council.

**Sponsors:** Representatives Crouse, Mielke, B. Chandler, Schindler, Dunn, Ahern, Pflug, Bush, DeBolt, Anderson, Schoesler, Jarrett, Woods, Delvin, Mitchell, Talcott and Benson.

**Brief History:**

**Committee Activity:**

Technology, Telecommunications & Energy: 2/21/01, 2/26/01 [DPS].

### Brief Summary of Substitute Bill

- Declares that a sufficient and reliable supply of energy is critically important to the health and welfare of the citizens of the state and to the prosperity of the region.
- Modifies the role of the Energy Facility Site Evaluation Council staff.
- Directs the Governor to conduct an evaluation of the council's operations and implement recommendations for enhanced efficiency.
- Raises the threshold for siting new energy facilities through the Energy Facility Site Evaluation Council (EFSEC) from 250 megawatts to 350 megawatts, and allows an applicant for a facility of 100 megawatts or more but less than 350 megawatts to opt into the EFSEC siting process.
- Provides that the chair of the council, appointed by the Governor, is a state employee and receives a salary set by the salary commission.
- Removes the Departments of Agriculture, Health, Transportation, and the Military Department from permanent membership on the council to optional membership at the department's discretion if a given application affects issues under the department's jurisdiction. Requires the department to begin its participation on the council within 60 days of receipt of an application.

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## HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Crouse, Republican Co-Chair; Poulsen, Democratic Co-Chair; Casada, Republican Vice Chair; Anderson, Bush, B. Chandler, DeBolt, Delvin, Esser, Mielke and Pflug.

**Minority Report:** Do not pass. Signed by 9 members: Representatives Ruderman, Democratic Vice Chair; Berkey, Cooper, Hunt, Linville, Morris, Reardon, Simpson and Wood.

**Staff:** Pam Madson (786-7166).

### Background:

The Energy Facility Site Evaluation Council (EFSEC) was created in 1970 to provide one stop licensing for large energy projects. Council membership includes a non-salaried citizen chair appointed by the Governor and representatives from nine state agencies: the

departments of Ecology; Fish and Wildlife; Health; Community, Trade, and Economic Development; Natural Resources; Agriculture; Transportation; as well as the Military Department and the Utilities and Transportation Commission. The council's membership may include representatives from the particular cities, counties or port districts where potential projects may be located.

The EFSEC's six staff members are located in the Department of Community, Trade, and Economic Development.

The EFSEC's jurisdiction includes the siting of large natural gas and oil pipelines, electric power plants above 250 megawatts (MW) and their dedicated transmission lines, new oil refineries or large expansions of existing facilities and underground natural gas storage fields. The EFSEC's jurisdiction does not include geothermal, wind, solar, or hydro power plants, nor does it cover general transmission lines.

In developing a site selection and approval process, the Legislature declared its intent to seek courses of action what would balance the demand for new energy facility location and operation with the broad interests of the public. Any actions taken by the council would be based on maintaining safety of energy facilities, protecting environmental quality and providing abundant energy at reasonable cost.

The EFSEC siting process generally involves six steps: (1) a potential site study followed by an application; (2) State Environmental Policy Act review; (3) review for consistency with applicable local land use laws and plans; (4) a formal adjudication on all issues related to the project; (5) certain air and water pollution discharge permitting reviews as delegated by the U.S. Environmental Protection Agency; and (6) a recommendation to the Governor who then decides whether to accept, reject or remand the application. A certification agreement approved by the Governor preempts any other state or local regulation concerning the location, construction and operational conditions of an energy facility.

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### **Summary of Substitute Bill:**

The Departments of Agriculture, Health, Transportation, and the Military Department are removed from permanent membership on the EFSEC and are allowed to participate as members at each department's discretion if a given applications affects issues under the department's jurisdiction. The department must begin its participation on the council within 60 days of receipt of an application by the council.

The chair of the council, appointed by the Governor, becomes a state employee and receives a salary set by the salary commission.

The threshold for siting new energy facilities through the EFSEC is raised from 250

megawatts to 350 megawatts. An applicant for a facility of 100 megawatts or more but less than 350 megawatts may seek certification through the EFSEC siting process.

The intent of the Legislature as expressed when the EFSEC was created is modified to reflect the need to avoid costly duplication in siting decisions and to ensure that decisions are made timely and without unnecessary delay. The Legislature finds that a sufficient and reliable supply of energy is critically important to the health and welfare of the citizens of the state and to the prosperity of the region.

Council staff is given a substantive role by allowing staff to make recommendations to the council on conditions that would allow site approval. Staff is directed to assist applicants in identifying issues presented by an application and upon review of all information, must recommend solutions for issues that are in dispute that would allow site approval. The council must ensure that sufficient staff are available to support a thorough review of all applications.

When the objectives of an agency participating on the council conflict with the need for adequate and reasonably priced energy, participating agencies must give priority to the directives of EFSEC statutes.

The Governor must conduct an evaluation of the council's operations and implement recommendations for enhanced efficiency. In his assessment of the EFSEC process, the Governor must consider whether the efficiency of the process would be improved if the state Environmental Policy Act process and the adjudicatory proceeding were conducted in a particular sequence.

#### **Substitute Bill Compared to Original Bill:**

This substitute bill raises the threshold for siting new energy facilities through EFSEC from 250 megawatts to 350 megawatts. It allows an applicant for a facility of 100 megawatts or more but less than 350 megawatts to opt into the EFSEC siting process. The chair of the council, appointed by the Governor, becomes a state employee and receives a salary set by the salary commission. The Departments of Agriculture, Health, Transportation, and the Military Department are removed from permanent membership on the council to optional membership at each department's discretion if a given application affects issues under the department's jurisdiction. The department must begin its participation on the council within 60 days of receipt of an application. The Governor, in his assessment of the EFSEC process, must consider whether the efficiency of the process would be improved if the state Environmental Policy Act process and the adjudicatory proceeding were conducted in a particular sequence.

**Appropriation:** None.

**Fiscal Note:** Not Requested.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The bill helps streamline and make more efficient the process for siting without compromising environmental quality that the EFSEC statutes were designed to protect. The original EFSEC statutes are fundamentally sound. Any change in the EFSEC statutes is controversial. However, after 30 years, it is reasonable to look at updating these statutes. A number of changes are aimed at improving efficiency. Some plants operate just under the 250 megawatt threshold. Increasing the threshold from 250 megawatts to 350 megawatts will allow plants to run at their higher efficiency level and will reduce the pollution impacts. This increase can be seen as a technological inflation factor. A 250 megawatt turbine in the 70's is very different compared to a turbine today. Concerns were expressed that the assumption that smaller plants do not have significant impact may not be accurate. A better approach is to lower the threshold and allow those plants with less impact to use an expedited process. This would also allow a statewide look at impacts. Reducing the number of agency members will reduce the number of members needed to make a decision, and that can further streamline the process. Making the chair of the council a salaried state employee will provide proper compensation for this position and will enhance the ability to recruit candidates for the position. The current non-salaried citizen chair has submitted her resignation and the position will need to be filled. Allowing more of a role for staff in resolving disputes will help make the process more efficient. Concern was also expressed over language that may be unclear as to the role agencies play on the council. If the intent is that agencies on the council have a need to pursue state energy policy and not other agency objectives. This language may limit an agency's ability to voice its concerns at any point in the process. There may also be a need to examine the monitoring and enforcement functions of EFSEC where a charge is incurred to have EFSEC interface with other agencies for this function. Concern was expressed that nothing in the bill suggests that EFSEC will site more expeditiously.

**Testimony Against:** None.

**Testified:** (In support with concerns) Carol Jolly, Governor's Office; Jim King, Citizens for Parks and Recreation; Danielle Dixon, Northwest Energy Coalition; R.L. Webring, Energy Northwest; Tim Boyd, Independent Customers of Northwest Utilities; Collins Sprague, Avista Corporation; Craig Engleking, Sierra Club; and Sandi Swarthout, Jim Frederick and Bob Clunk, ALCOA.