

# HOUSE BILL REPORT

## HB 1761

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### As Reported By House Committee On:

Energy & Utilities

**Title:** An act relating to clarification of physical conditions for determining the output of major energy projects.

**Brief Description:** Clarifying physical conditions for determining the output of major energy projects.

**Sponsors:** Representatives Casada, Hankins, Patterson, Crouse, Huff, Carlson, Morris, Mielke, Mitchell and Kessler.

### Brief History:

#### Committee Activity:

Energy & Utilities: 2/21/95, 3/1/95 [DP].

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## HOUSE COMMITTEE ON ENERGY & UTILITIES

**Majority Report:** Do pass. Signed by 10 members: Representatives Casada, Chairman; Crouse, Vice Chairman; Hankins, Vice Chairman; Kessler, Ranking Minority Member; Kremen, Assistant Ranking Minority Member; Chandler; Mastin; Mielke; Mitchell and Patterson.

**Staff:** Margaret Allen (786-7110).

**Background:** In 1970, the Legislature created the Energy Facility Site Evaluation Council (EFSEC) to coordinate the evaluation, siting, and licensing of major non-hydroelectric energy facilities. EFSEC has rulemaking authority.

For facilities falling within its jurisdiction, EFSEC: (1) evaluates the impacts of energy facility proposals; (2) recommends to the Governor whether to approve an energy facility application; (3) imposes conditions on approved projects to ensure safe construction and operation and to minimize adverse impacts; (4) monitors construction, operation, and eventual decommissioning of energy facilities; and (5) enforces compliance with site certification conditions.

Thermal power plants (electricity-generating facilities using fuel, such as gas-fired combined-cycle combustion turbines) of at least 250 megawatts are within EFSEC's jurisdiction.

In 1981, voters approved Initiative No. 394, which is called the Washington State Energy Financing Voter Approval Act. Under this law, a local government is prohibited from selling bonds to finance the construction or acquisition of major electrical generating facilities, that are intended to generate more than 250 megawatts of electricity, unless the voters of the local government approve a ballot proposition authorizing the expenditure of the funds. Provisions are made for the preparation of a cost-effectiveness study of the project by an independent consultant and preparation of a special voters' pamphlet on the proposal that is distributed to voters in the local governments proposing to participate in the project.

Historically, proponents of a new thermal power plant have relied on the "name-plate rating" to determine whether the plant is within EFSEC's jurisdiction or subject to the Washington State Energy Financing Voter Approval Act. However, a plant that ordinarily generates less than 250 megawatts of electricity may on some occasions, due to weather conditions, generate more than 250 megawatts of electricity. Influential weather conditions include ambient temperature and pressure.

Current law does not explicitly address situations where a thermal facility ordinarily generates less, but may occasionally generate more, than 250 megawatts of electricity.

**Summary of Bill:** Current law is amended to specify how the determination is to be made regarding whether a thermal power plant is within EFSEC's jurisdiction, or subject to the Washington State Energy Financing Voter Approval Act.

**Appropriation:** None.

**Fiscal Note:** Not Requested.

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

**Testimony For:** Gas turbines don't fit into the legal definition of an energy plant because they are very sensitive to ambient air temperature and pressure conditions. So, under certain weather conditions, a plant that is rated at under 250 megawatts could actually produce more than 250 megawatts. Clark County decided to put in a small gas turbine with a rating of 245 megawatts but they have run into difficulty determining whether their proposal falls under EFSEC jurisdiction or is required to go to a vote of the people because the statutory definition isn't clear in regards to power plants which may have varying output under different weather conditions. This proposal is illustrative of a problem EFSEC has faced before. EFSEC has never asserted jurisdiction over projects that, under certain conditions, go over the threshold. EFSEC has reviewed this language and is comfortable with it.

**Testimony Against:** PUDs want to limit the size of facilities that will fall under EFSEC siting jurisdiction. The Legislature intended that manufacturer's name plate rating would be used. This bill was introduced to circumvent the intent of the law and to avoid putting major energy projects up to a vote of the people. The public would like the opportunity to have EFSEC review a project whether it is a little over or a little under the 250 megawatt threshold, and the public would like these projects to go to a vote.

**Testified:** Jim Boldt and Nancy Barnes, Clark County PUD; Jason Zeller, EFSEC; and Ron Newbry, PacifiCorp (pro). R. B. Wachter; and Richard Nylan (con).