

***Technology, Telecommunications
& Energy Committee***

2SSB 5912

Brief Description: *Siting energy facilities.*

Sponsors: *By Senate Committee on Ways & Means (originally sponsored by Senators Fraser, Morton, Regala, Patterson, Oke, Kohl-Welles and Haugen).*

Brief Summary of Second Substitute Bill

- *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.*
- *Raises the threshold for siting new energy facilities through the Energy Facility Site Evaluation Council (EFSEC) from 250 megawatts to 350 megawatts, and allows certain applicants 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.*
- *Modifies the purpose and timing of hearings and reports under the EFSEC process.*
- *Modifies the state's preemption authority.*

Hearing Date: *3/28/01*

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.

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.

Summary of Bill:

EFSEC membership. *The departments of Health, Agriculture, and 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. Optional members must elect to participate no later than 60 days after the application is filed. The EFSEC chair becomes a state employee and receives a salary determined by the State Salary Commission.*

EFSEC jurisdiction. *The threshold for siting new energy facilities through EFSEC is raised from 250 MW to 350 MW. However, applicants may choose to use the EFSEC process for the following facilities: (1) stationary thermal power plants that exclusively use renewable resources, with a generating capacity from 100 MW to 349 MW; and (2) energy facilities that exclusively use renewable resources with a generating capacity of 1 MW or more.*

EFSEC siting process. *EFSEC must conduct a public hearing in the county of the proposed site as soon as practicable after receipt of an application. A local land-use consistency hearing does not have to occur at the initial public hearing. The current EFSEC deadlines are shortened subject to mutual extensions. EFSEC's report to the Governor must be based on the record developed in the public hearings and the environmental impact statement prepared under the State Environmental Policy Act.*

Monitoring responsibilities of EFSEC. *EFSEC may delegate its authority to determine*

compliance relative to the monitoring of an energy facility's construction and operation.

EFSEC's preemption authority. *EFSEC certification does not preempt the authority of state agencies or local governments regarding the management or use of public property. Any condition in a draft certification that constitutes a variance to an otherwise applicable state or local standard must be based on a finding that the variance will adequately protect against the harm sought to be prevented by the state or local standard being varied. In addition, if a draft certification recommends the use of public property, the council's report to the Governor must state the views of state agencies or local governments with authority over the property.*

Preclusion of energy facilities by local governments. *Counties and cities may not preclude the siting of energy facilities in their zoning ordinances and comprehensive plans. EFSEC may adopt standards to guide counties and cities in making that determination.*

Appropriation: *None.*

Fiscal Note: *Available for 2SSB 5912.*

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