

HOUSE BILL REPORT

HB 2402

As Reported by House Committee On:
Technology, Energy & Communications

Title: An act relating to expedited processing of energy facilities and alternative energy resources under the energy facility site evaluation council.

Brief Description: Providing for expedited processing of energy facilities and alternative energy resources.

Sponsors: Representative Morris.

Brief History:

Committee Activity:

Technology, Energy & Communications: 1/10/06, 1/12/06 [DPS].

Brief Summary of Substitute Bill

- Establishes new guidelines for granting expedited processing certification for a proposed energy facility or an alternative energy resource.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Morris, Chair; Kilmer, Vice Chair; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Ericks, Hankins, Hudgins, Nixon, P. Sullivan, Sump, Takko and Wallace.

Staff: Scott Richards (786-7156).

Background:

The Energy Facility Site Evaluation Council (EFSEC) was created in 1970 to provide one-stop licensing for large energy projects. Council membership includes mandatory representation from five state agencies and discretionary representation from four additional state agencies. The council's membership may include representatives from the particular city, county, or port district where potential projects may be located.

The EFSEC's jurisdiction includes the siting of large intrastate natural gas and petroleum pipelines, electric power plants above 350 megawatts, new oil refineries, large expansions of existing facilities, and underground natural gas storage fields. For electric power plants, the EFSEC's jurisdiction extends to those associated facilities that include new transmission lines that operate in excess of 200 kilovolts and are necessary to connect the plant to the Northwest

power grid. Developers of energy facilities that exclusively use alternative energy resources, regardless of the size of the facility's generation capacity, may choose to use the EFSEC process to site the facility.

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.

Under the EFSEC process, the applicant is required to pay the costs of the EFSEC in processing an application.

Summary of Substitute Bill:

An alternative energy resource facility filing an application for certification with EFSEC may apply for expedited processing of the application.

The EFSEC may grant an applicant expedited processing of any application for certification upon finding that (a) the environmental impact of the proposed energy facility is not significant or will be mitigated to a nonsignificant level under RCW 43.21C.031 and (b) the project is found under RCW 80.50.090(2) to be consistent and in compliance with municipal, county or regional land use plans or zoning ordinances.

Once the applicant has been awarded expedited processing the EFSEC shall not be required to commission an independent study to further measure the consequences of the proposed energy facility or alternative energy resource facility on the environment.

Municipal, county and regional land use plans and zoning ordinances must be considered by EFSEC in reviewing an application for expediting processing and in conducting a public hearing under 80.50.090. Once a determination is made by the EFSEC that a proposed site does conform with existing land use plans or zoning ordinances, municipal, county and regional authorities shall not change such land use plans or zoning ordinances so as to affect the proposed site.

Substitute Bill Compared to Original Bill:

- Adds a reference to Chapter 36.70A (Growth Management Act) in the definition of "land use plan."
- Adds a reference to Chapter 36.70A (Growth Management Act) in the definition of "zoning ordinances."
- Grants expedited processing to an applicant in cases where the environmental impact is above the level of nonsignificance but can be mitigated to a nonsignificant level.

- Adds that the land use plans and zoning ordinances of cities and towns must be considered in reviewing an application for expediting processing and in conducting public hearings under 80.50.090.
 - Makes a technical change to the bill.
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Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (In support) This bill corrects an oversight in the legislation in that alternative energy resources are excluding from receiving expedited processing of applications.

(In support with amendment) In current law and in the proposed bill there is no reference to cities in sections related to the expedited processing of applications and the public hearings process.

Testimony Against: None.

Persons Testifying: (In support) Representative Morris, prime sponsor; and Jim Luce, Energy Siting Council.

(In support with amendment) Dave Williams, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.