

# HOUSE BILL REPORT

## HB 1038

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### As Amended by the Senate

**Title:** An act relating to developing regional compacts for siting electric transmission lines.

**Brief Description:** Developing regional compacts for siting electric transmission lines.

**Sponsors:** By Representatives Morris, Hudgins, Anderson, Moeller and B. Sullivan.

#### Brief History:

##### Committee Activity:

Technology, Energy & Communications: 1/10/07, 1/17/07 [DP].

##### Floor Activity:

Passed House: 1/29/07, 97-0.

Senate Amended.

Passed Senate: 4/12/07, 48-1.

#### Brief Summary of Bill

- Establishes a task force to negotiate the terms of a regional compact to site electric transmission corridors of national interest.

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### HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

**Majority Report:** Do pass. Signed by 10 members: Representatives Morris, Chair; McCoy, Vice Chair; Crouse, Ranking Minority Member; McCune, Assistant Ranking Minority Member; Eddy, Hankins, Hudgins, Hurst, Takko and VanDeWege.

**Staff:** Scott Richards (786-7156).

#### Background:

##### National Energy Policy Act of 2005

Section 1221 of the National Energy Policy Act of 2005 (Act) authorizes the Secretary of The United States Department of Energy (Secretary) to conduct a study within one year of passage, and triennially thereafter, of electric transmission congestion.

In determining whether to designate a particular area as a National Interest Electric Transmission Corridor (NIETC), the Secretary may consider the following:

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

- whether the economic vitality and development of the corridor, or the end markets served by the corridor, may be constrained by lack of adequate or reasonably priced electricity;
- whether economic growth in the corridor, or the end markets served by the corridor, may be jeopardized by reliance on limited sources of energy; and a diversification of supply is warranted;
- whether the energy independence of the United States would be served by the designation;
- whether the designation would be in the interest of national energy policy; and
- whether the designation would enhance national defense and homeland security.

### **First National Electric Transmission Congestion Study**

In August 2006, the Secretary issued the first National Electric Transmission Congestion Study (Study) which designated geographic areas experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers.

The Study identified the corridor from Seattle to Portland as a "Congestion Area of Concern." These are areas where a large-scale congestion problem exists or may be emerging. The Study noted that "electricity flows in the area near Highway I-5 from Seattle south toward Portland have become increasingly congested over the past two years, and there is reason to believe that without attention, the problem will grow worse. The U.S. Department of Energy highlights this area as a matter of concern because these flows represent a growing reliability problem for grid operators, and an emerging economics problem for the Northwest region."

Also, the Study noted that "some of the most congested and problematic paths in the Northwest cross the Washington-Oregon border," especially during summer when loads are highest and transmission operating limits are lower. The Study noted that in August 2005, lines were loaded above their limits at least 29 times.

The U.S. Department of Energy has not made its first NIETC designation.

### **Federal Energy Regulatory Commission's Backstop Authority**

While the Act mandates the U.S. Department of Energy to designate NIETCs, the Federal Energy Regulatory Commission (FERC) is authorized to issue NIETC construction or modification permits. The FERC may issue permits if:

- a state does not have siting authority;
- a state does not consider interstate benefits;
- a state has withheld approval for more than one year after the filing of an application or one year after the designation as a national interest electric transmission corridor; or
- a state has conditioned its approval in such a manner that there will be no significant reduction of transmission congestion.

### **Interstate Compact**

Section 1221 prohibits FERC from exerting backstop authority if three or more contiguous states enter into an interstate compact establishing a regional transmission siting agency. The creation of an interstate compact is subject to approval by the U.S. Congress.

The Act grants regional compact agencies the authority to facilitate siting of future electric energy transmission facilities with compact states and to carry out the electric energy transmission siting responsibilities of compact states. The FERC retains authority to issue a permit for construction or modification of an electric transmission facility with a compact state, if members' states are in disagreement and the Secretary finds it an impediment to completing the work.

### **Energy Facility Site Evaluation Council (EFSEC)**

The EFSEC's jurisdiction includes siting in Washington the construction of new electrical transmission facilities or the modification of existing electrical transmission facilities in a National Interest Electric Transmission Corridor designated by the Secretary.

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## **Summary of Bill:**

### **Task Force**

A task force is established to negotiate the terms of a regional interstate compact to assert jurisdiction over national interest electric transmission corridors.

### **Task Force Membership**

The chair and the ranking minority member from the Senate Water, Energy and Environment Committee and the House of Representatives Technology, Energy and Communications Committee serve as legislative representatives on the task force. The Governor appoints five members to serve on the task force. After the task force is formed, members will choose co-chairs representing the House of Representatives and the Senate from among its legislative membership.

### **Terms of the Compact**

In negotiating the terms of the compact, the task force is instructed to ensure the compact reflects as close as possible the Washington EFSEC model and its procedures to ensure appropriate adjudicative proceedings and mitigation of environmental impacts. Also, the task force is to negotiate the terms of the compact through processes established and supported by the Pacific Northwest Economic Region.

### **Task Force Staff Support**

Staff support for the task force members is provided from respective legislative committees and appropriate agencies appointed by the Governor.

### **Reporting Requirements**

The task force is required to report to the appropriate committees of the Legislature its preliminary recommendations on the compact by January 1, 2008, and its final recommendations by September 1, 2008.

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## **EFFECT OF SENATE AMENDMENT(S):**

- Corrects the name of the Senate Water, Energy and Telecommunications Committee.
- Authorizes the Legislative members of the task force to appoint "designees."

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) Through the Pacific Northwest Economic Region, we have been pushing this issue because we feel it is worthy to discuss whether we prefer a regional compact over the federal government coming in and siting these lines for us. There might be cases where there is a regional interest that might be different than a national interest about where a line goes and what happens with it. We've seen that many times before on other issues. This is a chance for us to control our own regional destiny and not to leave it up to Washington D.C. to make those decisions for us.

This bill creates a discussion. It does not mandate a regional compact. Currently, there is no formal process ongoing to discuss these matters and how a compact would come together and what it might look like.

A regional compact would address a void in regional collaboration. The Legislature may want to consider appointing a representative to reflect the utility perspective.

(Opposed) None.

**Persons Testifying:** Representative Morris, prime sponsor; Ken Johnson, Puget Sound Energy; and Kathleen Collins, PacifiCorp.

**Persons Signed In To Testify But Not Testifying:** None.