

# SENATE BILL REPORT

## SHB 1081

---

---

As Reported by Senate Committee On:  
Environment, Water & Energy, March 23, 2011

**Title:** An act relating to small facility siting.

**Brief Description:** Regarding the siting of small alternative energy resource facilities.

**Sponsors:** House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Frockt and Moeller).

**Brief History:** Passed House: 3/02/11, 92-3.

**Committee Activity:** Environment, Water & Energy: 3/09/11, 3/23/11 [DPA, DNP, w/oRec].

---

### SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

**Majority Report:** Do pass as amended.

Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford, Ranking Minority Member; Chase and Ranker.

**Minority Report:** Do not pass.

Signed by Senators Delvin and Holmquist Newbry.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Morton.

**Staff:** William Bridges (786-7416)

**Background:** The process for siting and constructing small wind energy systems is generally governed by local ordinances. It may include building permits, conditional use permits, and related administrative hearings.

Growth Management Act (GMA). The GMA is the comprehensive land use planning framework for counties and cities in Washington. Counties and cities meeting specific population and growth criteria are required to comply with the major requirements of the GMA. Policies, development regulations, and comprehensive plans developed under the GMA must be updated on a seven-year cycle.

---

*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.*

Net Metering. Net metering allows electricity customers to offset their consumption of purchased electricity with electricity generated by their own small scale renewable systems. Under current law, a net metering system must generate no more than 100 kilowatts using cogeneration, fuel cells, water, wind, solar energy, or biogas.

**Summary of Bill (Recommended Amendments):** Requiring the Department of Commerce (Commerce) to Recommend Model Siting Ordinances. By December 31, 2012, Commerce, in consultation with the WSU Extension Energy Program and statewide county and city organizations, must recommend a range of model ordinances to assist cities and counties in siting and permitting small-scale renewable energy systems. The recommendations must consider the following factors: the size of the energy system, the generating capacity of the energy system, and the appropriateness of the energy system for small urban, large urban, suburban, and rural communities.

Commerce must report its recommendations to the Legislature. Commerce must also make the recommendations available for counties, cities, and statewide city and county organizations.

Requiring Counties and Cities to Adopt Model Ordinances. Counties or cities, without ordinances to site small-scale renewable energy systems, must adopt ordinances based upon Commerce's recommendations. Ordinances may be tailored to meet local circumstances and may be adopted concurrently with the scheduled updates provided in the GMA.

A county is not required to adopt ordinances for any facilities with a generating capacity greater than 3.5 kilowatts (kW) within residential areas. However, a county is required to adopt ordinances for wind facilities with a generating capacity greater than 3.5 kW and not more than 5 megawatts (MW) on agricultural and forest lands. A city is not required to adopt ordinances for any facilities with a generating capacity greater than 3.5 kW.

Defining Small Scale Renewable Energy Systems. The term means a wind facility with a generating capacity of not more than 5 MW and any facility that meets the definition of a net metering system except facilities that use biomass as a fuel.

Findings. Various findings are made, such as the growing interest in small scale renewable energy systems and the various difficulties local governments face in siting them.

**EFFECT OF CHANGES MADE BY ENVIRONMENT, WATER & ENERGY COMMITTEE (Recommended Amendments):** Strikes everything in the underlying bill. Requires Commerce to consult with specified entities and to recommend a range of model ordinances for siting and permitting small-scale renewable energy systems by December 31, 2012. Requires Commerce to report its recommendations to the Legislature and to make its recommendations available for counties, cities, and statewide city and county organizations. Requires counties or cities, without ordinances to site small-scale renewable energy systems, to adopt ordinances based upon Commerce's recommendations following specified generating capacities. Makes various findings and adds 5 MW wind to the definition of small scale renewable energy systems.

**Appropriation:** None.

**Fiscal Note:** Available.

[OFM requested ten-year cost projection pursuant to I-960.]

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2011.

**Staff Summary of Public Testimony on Substitute House Bill:** PRO: This is a workable and bipartisan bill that is the result of the prime sponsor's work over the last four years. The current siting process is a barrier to the deployment of small renewable systems because it is too expensive for developers and because many local governments lack time and expertise to develop appropriate standards. This bill will allow Energy Facility Site Evaluation Council (EFSEC) to apply its expertise and let locals enforce the siting permit. Farmers need the bill to cover 5 MW systems to help them with their irrigation costs. This bill is needed because local governments have no budgets, inadequate or no ordinances, or are controlled by special interests who oppose wind turbines.

CON: Counties and cities support renewable energy but oppose preemption. The bill proponents seek preemption because they failed to get the result they wanted after using a local process that was open, and which resulted in a decision that was made by locally elected officials. This bill will create a closed process with non-elected staff in Olympia making siting decisions. This is a fundamental departure from the land use process. The cities have already posted model ordinances on the Municipal Research and Services Center website. While the Legislature has been entertaining preemption bills for several years, there has been no effort to help local governments with expertise or money to assist their siting efforts. Local governments want help not preemption.

OTHER: Bill does not distinguish between wind projects with and without blades. The current local siting process works for certain wind technologies that do not use blades.

**Persons Testifying:** PRO: Representative Morris, prime sponsor; Catherine Clerf; Jill MacIntyre Witt, WA Local Energy Alliance; Terry Meyer, Cascade Community Wind; Jack Wheatley, self.

CON: Scott Merriman, WSAC; Dave Williams, Assn. of Washington Cities.

OTHER: Ted Thomas, NW Windpower, Washington Small Wind Association.