

SENATE BILL REPORT

SB 5310

As Passed Senate, March 5, 2015

Title: An act relating to enforcement actions at facilities sited by the energy facility site evaluation council.

Brief Description: Addressing enforcement actions at facilities sited by the energy facility site evaluation council.

Sponsors: Senators Ericksen, McCoy, Sheldon, Honeyford, Ranker and Cleveland; by request of Energy Facilities Siting and Evaluation Council.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 2/04/15, 2/11/15, 2/12/15 [DP].

Passed Senate: 3/05/15, 47-0.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Majority Report: Do pass.

Signed by Senators Ericksen, Chair; Sheldon, Vice Chair; McCoy, Ranking Minority Member; Braun, Brown, Cleveland, Habib, Honeyford and Ranker.

Staff: William Bridges (786-7416)

Background: Energy Facility Site Evaluation Council (EFSEC). Created in 1970, EFSEC is the permitting and certificating authority for the siting of major energy facilities in Washington. An EFSEC site certification agreement (SCA) authorizes an applicant to construct and operate an energy facility in lieu of any other permit or document required by any other state agency or subdivision. As part of the SCA process, EFSEC issues all state and federal air and water-discharge permits.

EFSEC Members. EFSEC is comprised of a chair appointed by the Governor, and representatives from five state agencies: the departments of Commerce, Ecology, Fish and Wildlife, and Natural Resources, and the Utilities and Transportation Commission. Four other departments may each choose to participate in EFSEC for a particular project: Agriculture, Health, Transportation, and Military. Finally, local governments must also appoint members to EFSEC for the review of proposed facilities located in their jurisdictions.

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.

EFSEC Jurisdiction. EFSEC's siting jurisdiction includes nuclear power plants of any size and thermal electric power plants with a generating capacity of 350 megawatts or greater. Energy facilities of any size that exclusively use alternative energy resources, such as wind power, can also opt into the EFSEC review and certification process.

Enforcing Permits in the SCA. EFSEC has the regulatory authority to enforce compliance with conditions in the SCA through fines or by ceasing construction or operation of the facility. A violation of a permit issued by EFSEC can be enforced by a fine up to \$5,000 per day. A similar permit issued by the Department of Ecology (Ecology), however, is enforceable by a fine up to \$10,000 per day. Unlike Ecology, EFSEC does not have authority to levy an additional fine of up to \$100,000 per day for discharges of oil on the state's waters, and it is not clear that Ecology has authority to impose this fine on facilities that possess an SCA.

Summary of Bill: Raises the Maximum Penalty Amount EFSEC May Impose on Permit Violators. The maximum daily fine EFSEC may impose for a permit violation is raised from \$5,000 per day to \$10,000 per day, which equals Ecology's authority for violations of similar permits.

Clarifies that Ecology may Impose Oil-Discharge Fines on Facilities Certificated by EFSEC. Ecology is granted express authority to impose fines up to \$100,000 per day on EFSEC-certificated facilities that illegally discharge oil on the state's waters.

Corrects Errors and Makes Other Clarifying Changes. Statutory references are corrected, types of permits are expressly listed, redundant language is removed, and the appeal process is clarified.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: The bill updates EFSEC's enforcement authority, corrects missed citations and omissions, and replaces hard-to-read language. The changes will assist the state in keeping its delegated authority from the Environmental Protection Agency. There is no known opposition to the bill.

Persons Testifying: PRO: Bill Lynch, Chair, EFSEC.

Persons Signed in to Testify But Not Testifying: No one.