

SENATE BILL REPORT

SB 6224

As of January 28, 2016

Title: An act relating to energy facility site evaluation council procedure.

Brief Description: Concerning energy facility site evaluation council procedure.

Sponsors: Senators Brown, Braun, Hewitt and Rivers.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 1/27/16.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Staff: Jeff Olsen (786-7428)

Background: The Energy Facility Site Evaluation Council (EFSEC) was established in 1970 to provide a single siting process for major energy facilities located in the state. EFSEC coordinates all evaluation and licensing steps for siting certain energy facilities. If approved, a site certification agreement (SCA) is issued in lieu of other individual state or local agency permits. When an application to site a facility is submitted to EFSEC, representatives from particular cities, counties, or port districts affected by the project are appointed to EFSEC for proceedings related to the project. Informational public hearings in the county of the proposed site must be held no later than 60 days after receipt of an application. After the informational public hearing, EFSEC must conduct a public hearing to determine if the proposed site is in compliance with local land use plans and zoning regulations. If it is determined that the proposed site does conform to local ordinances, local authorities may not change ordinances that affect the proposed site.

EFSEC's SCA process includes adjudicative hearings on the proposed project that allow the applicant and opponents to present information. At the conclusion of the hearings, EFSEC provides a SCA recommendation to the Governor regarding the project within 12 months of receiving an application, or a later time if mutually agreed to by EFSEC and the applicant. The Governor has 60 days to consider the SCA recommendation and take action to approve, reject, or ask for reconsideration of certain aspects of the SCA.

In 2015, the Legislature directed EFSEC to conduct a study analyzing factors relating to siting and licensing small modular reactors in Washington. The report contained

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recommendations that could benefit the development, permitting and siting including streamlining of the permitting process.

Summary of Bill: Timelines for applying for EFSEC certification are established for expedited processes and reduced for steps in the general application review and approval process. Informational public hearings must be conducted within 30 days, rather than 60 days, of receipt of an application. EFSEC shall report its SCA recommendation to the Governor within six months, rather than 12 months, of receipt of an application, or a later time if mutually agreed to by EFSEC and the applicant. EFSEC and all parties to the adjudicative proceeding shall make every reasonable effort to ensure a SCA recommendation is made to the Governor no later than six months after receipt of an application. The Governor must take action on the SCA recommendation within 30 days, rather than 60 days. If the Governor asks for reconsideration of certain aspects of the SCA agreement, EFSEC has 30 days for reconsideration, and then the Governor has 30 days, rather than 60 days, to take action on the SCA.

Orders to grant expedited processing of an application must be issued within 60 days of receipt of an application, or later if mutually agreed upon by the applicant and EFSEC. An informational public hearing for an expedited process must be conducted within 30 days of receipt of an application. Within 30 days following the granting of expedited processing, EFSEC shall forward its SCA recommendation to the Governor.

The requirement for EFSEC to hold public hearings after the initial informational public hearing to determine if the proposed site is in compliance with local land use plans and zoning regulations is removed. A preapplicant informational public hearing must occur within 30 days, rather than 60 days, after receipt of a pre-application fee. Requirements for reporting SCA recommendations to the Governor for generating facilities located in a county with a coal-fired facility must be made within 90 days of receipt of an application, rather than 180 days.

Appropriation: None.

Fiscal Note: Requested on January 20, 2016.

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: EFSEC provides one-stop siting for a variety of energy projects including Chehalis generation, wind power, and natural gas facilities. A recent EFSEC study on streamlining siting for energy facilities has made recommendations for improvements to the process, and the bill contains changes to expedite the EFSEC process. Energy Northwest is participating in a small modular reactor project in Idaho, and will gain experience operating these new units. Expedited processing will allow Washington to bring on new power when it is needed. The current SEPA process is working, however there may be ways to expedite it under current law. A report on EFSEC operations was prepared for the previous Governor, and the report identified ways to enhance its efficiency.

While there is support for the changes regarding land use hearings, EFSEC moves projects along as expeditiously as it can, and the timelines don't need to be changed.

CON: While there is support for streamlining the siting of clean energy projects, there are concerns with the elimination of land use consistency hearings, and where that is built in to the process. An unintended consequence of constricting the timeline could be how it impacts the SEPA process, especially for complex projects. What if the SEPA review does not meet the six month deadline in the bill? It is also not clear if there is a six month deadline in the bill, creating some confusion. There is also a concern that the bill eliminates the authority for EFSEC to hold additional public hearings it deems are appropriate.

OTHER: The elimination of the separate land use consistency hearing would be more efficient, and the land use issues can be consolidated with the adjudication process. This would not prevent the public from being heard, and may ease confusion for some members of the public. Timeline reductions in the bill will be difficult to meet and some are problematic. Reducing the 60 day timeline for informational hearings to 30 days is opposite of a previous task force recommendation that thought 60 days was not enough time. Reducing the one year timeframe for issuing a recommendation to the Governor and the time to review complex projects is problematic. Using a pre-application process has been successful in other states, and the State Auditor has recommended pre-application processes in their regulatory reform reports. Issuance of permits as part of the EFSEC process may also need to be reviewed. Current definitions for EFSEC jurisdiction could be made more clear to save time and confusion.

Persons Testifying: PRO: Jim Gaston, Energy Northwest; James Luce, retired.

CON: Darcy Nonemacher, Washington Environmental Council.

OTHER: Bill Lynch, EFSEC.

Persons Signed In To Testify But Not Testifying: No one.