

SENATE BILL REPORT

ESHB 1332

As of March 12, 2019

Title: An act relating to updating and streamlining the energy facility site evaluation council operations.

Brief Description: Concerning updating and streamlining energy facility site evaluation council operations.

Sponsors: House Committee on Environment & Energy (originally sponsored by Representatives Wylie, DeBolt, Mead, Doglio, Fitzgibbon and Tharinger; by request of Energy Facility Site Evaluation Council).

Brief History: Passed House: 3/09/19, 88-8.

Committee Activity: Environment, Energy & Technology: 3/14/19.

Brief Summary of Bill

- Adds new permanent members to the Energy Facility Site Evaluation Council (EFSEC) and removes discretionary members.
- Incorporates EFSEC consideration of land-use laws into the informational public hearing.
- Amends the EFSEC's authority to conduct a preliminary study of potential energy facility projects.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

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Background: Energy Facility Site Evaluation Council. Created in 1970, EFSEC is the permitting and certifying authority for siting major energy facilities in Washington. An EFSEC site certification agreement (SCA) authorizes an applicant to construct and operate an energy facility in lieu of permits or documents 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.

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Energy Facility Site Evaluation Council 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. Local governments must also appoint members to EFSEC to review proposed facilities located in their jurisdictions.

Energy Facility Site Evaluation Council 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.

Summary of Bill: Energy Facility Site Evaluation Council Membership and Staffing. EFSEC membership is expanded to include one member designated by the Washington State Association of Counties and two members designated by tribal governments.

Of the two members designated by tribal governments, one member must be an elected tribal government member from a federally recognized treaty tribe and one member must be an elected tribal government member from a federally recognized tribe with trust resource agreements. The two tribal members together have one vote.

The legislative authority of every city within whose corporate limits an energy facility is proposed to be located must appoint a member or designee as a voting member to the EFSEC. The appointed member or designee must sit with EFSEC only at such times as the EFSEC considers the proposed site for the city that the member represents. The member or designee must serve until there has been final acceptance or rejection of the proposed site.

A quorum consists of a majority of members. If a member has not been designated for a position, that position may not be counted for purposes of determining a quorum.

Discretionary membership is eliminated. Instead, upon receiving an application for certification for an energy facility, the EFSEC chair must notify the departments of Agriculture, Health, Transportation, and Military, as well as the appropriate federally recognized treaty and trust resource tribal governments. The discretionary position for a local port district as a nonvoting member is eliminated.

The EFSEC chair, instead of the Utilities and Transportation Commission (UTC), may appoint and supervise staff to the council.

Public Hearings. EFSEC is directed to take public comment on whether or not the proposed site is compliant with current local land-use plans or zoning ordinances at the informational public hearing, instead of conducting a separate hearing.

After holding a hearing to take public comment on the completed environmental impact statement and the completion of tribal consultation, the council may waive the required adjudicative proceeding if it determines genuine issues of fact do not exist with the

application for site certification and local land-use laws. Waiving the adjudicative proceeding request a vote of EFSEC.

Pre-application Process. EFSEC may agree to conduct a preliminary study of a potential project prior to a formal application for site certification. A potential applicant must deposit a \$10,000 fee with the UTC, rather than the state treasurer, for each potential project. Payments made for a preliminary study may now be credited toward the application fee of a subsequent application for an energy facility at the same site.

Other Clarifying Changes. EFSEC must develop and apply environmental and ecological guidelines to initial operational conditions of certification as well as ongoing regulatory oversight of energy facilities under its jurisdiction. EFSEC must report its recommendations to approve or reject an application for certification to the Governor within 12 months, once it deems the application is complete.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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