

SENATE BILL REPORT

SB 5283

As of February 19, 2025

Title: An act relating to prohibiting the energy facility site evaluation council from preempting local laws that forbid the siting of certain storage facilities in critical areas.

Brief Description: Prohibiting the energy facility site evaluation council from preempting local laws that forbid the siting of certain storage facilities in critical areas.

Sponsors: Senators Wagoner, Wilson, J., Dozier, Boehnke, Schoesler, Muzzall, Warnick and Fortunato.

Brief History:

Committee Activity: Environment, Energy & Technology: 2/19/25.

Brief Summary of Bill

- Prohibits the Energy Facility Site Evaluation Council from preempting land use or zoning ordinances for siting electrical battery storage facilities in critical areas.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Staff: Kimberly Cushing (786-7421)

Background: Energy Facility Site Evaluation Council. Created in 1970, the Energy Facility Site Evaluation Council (EFSEC) is the permitting and certifying authority for siting major energy facilities in Washington. EFSEC is comprised of a chair appointed by the Governor, and representatives from five state agencies.

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 or solar energy, clean energy product manufacturing facilities, and storage facilities may opt into the EFSEC

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certification process.

A storage facility is a plant that accepts electricity as an energy source and uses a chemical, thermal, mechanical, or other process to store energy for subsequent delivery or consumption of electricity; or stores renewable hydrogen, green electrolytic hydrogen, or a green hydrogen carrier for delivery or consumption.

EFSEC coordinates all evaluation and licensing steps for siting certain energy facilities, and specifies the conditions of construction, enlargement, and operation. EFSEC must conduct an adjudicative proceeding to allow the applicant and opponents to present information to support their cases. Land use preemption issues may also be heard during these proceedings. An EFSEC site certification agreement authorizes an applicant to construct and operate an energy facility in lieu of permits or documents required by any other state agency or subdivision.

Critical Areas Under the Growth Management Act. Under the Growth Management Act, critical areas include the following areas and ecosystems: (1) wetlands, (2) areas with a critical recharging effect on aquifers used for potable water, (3) fish and wildlife habitat conservation areas, (4) frequently flooded areas, and (5) geologically hazardous areas.

Fish and wildlife habitat conservation areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

Summary of Bill: Any land use plan or zoning ordinance that forbids the siting of an electricity storage facility in a critical area may not be preempted by EFSEC.

Appropriation: None.

Fiscal Note: Requested on February 13, 2025.

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

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

Staff Summary of Public Testimony: PRO: EFSEC was designed to streamline permitting of critical energy resources, and it can be an important tool but also a tool to do an end run on local zoning. Battery technology has a good place in our system of technologies but there are some real problems with it. We have industrial zones that are far from schools and salmon streams, which would be good places for these or other technologies in order to store our energy for times when we really need it. None of us are against battery projects, but they need to be placed in hardened industrial areas, places that have emergency management resources available to handle any challenges. Buying

farmland is becoming prohibitively expensive with booming real estate prices in Washington. Many of these small pieces of agricultural lands should be available to young new farmers, but unfortunately they are competing with energy companies to purchase this land.

Persons Testifying: PRO: Senator Keith Wagoner, Prime Sponsor; Matt Steinman, Foothills Farm.

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