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**Technology, Energy & Communications  
Committee**

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**HB 2516**

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

**Sponsors:** Representatives Morris, Chase, Hudgins and Morrell.

**Brief Summary of Bill**

- Authorizes the Energy Facility Site Evaluation Council (EFSEC) to permit small alternative energy resource facilities, preempting any permit issued by a local government.
- Exempts the permitting of small alternative energy resources from the EFSEC's adjudicatory proceeding process and review and approval by the Governor.
- Authorizes the EFSEC and local governments to enter into an interlocal agreements to permit small alternative energy resource facilities within the geographic jurisdiction of the local government.

**Hearing Date:** 1/18/10

**Staff:** Scott Richards (786-7156).

**Background:**

Under current Washington law, the Energy Facility Site Evaluation Council (EFSEC) provides a "one-stop" siting process for major energy facilities in Washington. The EFSEC coordinates all evaluation and licensing steps for siting certain energy facilities in Washington. The EFSEC specifies the conditions of construction and operation. If approved, a site certification agreement is issued in lieu of any other individual state or local agency permits.

The EFSEC is comprised of a Chair appointed by the Governor, and representatives from five state agencies. Agencies represented on the EFSEC include: (1) the Department of Commerce; (2) the Department of Ecology; (3) the Department of Fish and Wildlife; (4) the Department of

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Natural Resources; and (5) the Utilities and Transportation Commission. When an application to site a facility is submitted to the EFSEC, representatives from particular cities, counties, or port districts potentially affected by the project are added to the EFSEC for proceedings related to the project.

The energy facilities subject to review by the EFSEC include:

- thermal electrical generation power plants with electrical generating capacity of 350 megawatts (MW) or more;
- floating thermal power plants of 100 MW or more,
- alternative energy electrical generation facilities of any size for which an applicant chooses to receive certification under EFSEC,
- crude or refined petroleum or liquid petroleum product pipelines larger than six inches in diameter and greater than 15 miles in length,
- natural gas, synthetic fuel, gas, or liquefied petroleum gas pipelines larger than 14 inches in diameter and greater than 15 miles in length (intrastate only),
- electrical transmission facilities in a national interest electric transmission corridor,
- electrical transmission facilities over a certain voltage for which an applicant chooses to receive certification under EFSEC,
- new refineries capable of processing more than 25,000 barrels per day of petroleum into refined product,
- any underground natural gas storage reservoir capable of delivering more than 100,000,000 cubic feet per day.

**Eligible Alternative Energy Resources:** Alternative energy resources eligible for site certification under EFSEC include: (1) wind; (2) solar energy; (3) geothermal energy; (4) landfill gas; (5) wave or tidal action; or (6) biomass energy based on solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic.

**Adjudicative Proceedings:** The EFSEC's adjudicatory proceedings process is a formal hearing process similar to courtroom proceedings, where the EFSEC hears from the official parties to the proceedings. The certification process requires the EFSEC to hold hearings on proposed projects to allow the applicant and opponents to present information to support their cases. The EFSEC's adjudicative proceedings must be conducted as required under the Adjudicative Proceedings Act.

**Recommendation to the Governor:** If the EFSEC determines the project should be recommended to the Governor, it develops an administrative order on its recommendation and a draft Site Certification Agreement (SCA) to be signed by the Governor. The SCA has all of the environmental, social, economic, and engineering conditions the applicant must meet for construction and operation throughout the life of the project. If the EFSEC determines the project should not be recommended to the Governor for approval, the final order explains the EFSEC's decision. The Governor has 60 days to consider the EFSEC's recommendation and can take one of the following actions: (1) approve the EFSEC recommendation and execute the draft SCA; (2) reject the application; or (3) direct the EFSEC to reconsider certain aspects of the project and draft SCA.

## **Summary of Bill:**

**Site Certification of Small Alternative Energy Resource Facilities:** The EFSEC is authorized to receive site certification applications for small alternative energy resource facilities that connect at the electric distribution level and certify a small alternative energy resource facility in an expedited manner. Any person may apply to the EFSEC for site certification of a small alternative energy resource facility. A site certification issued by the EFSEC for a small alternative energy resource facility preempts any permit issued by a local government.

To perform its duties in certifying small alternative energy resource facilities, the EFSEC is: (1) directed to survey for and determine the safest known standards for the siting of small alternative energy resource facilities and adopt site certification standards based on the safest known standards; (2) authorized to charge a reasonable application processing fee for the actual and necessary cost incurred by the EFSEC; (3) required to certify a small alternative energy resource facility site in an expedited manner; and (4) authorized to delegate authority to the EFSEC staff to issue small alternative energy resource facility site certificates.

**Eligible Small Alternative Energy Resource Facilities:** A small alternative energy resource facility means an alternative energy resource facility with a nameplate generating capacity of 300 kilowatts (kW) or less. In the case of wind, a small alternative energy resource facility means a wind energy system that: (1) is used to generate electricity; (2) has a nameplate capacity of 300 kW or less; and (3) has a total height of 170 feet or less.

**Written Cost Estimates:** Before submitting a site certification application for a small alternative energy resource facility, an applicant may submit a letter to the EFSEC to inquire as to whether a proposed facility would require mitigation and receive a written cost estimate from the EFSEC of the cost of processing the application.

**Exemption from Certain EFSEC Processes:** The site certification for small alternative energy resources is exempted from the EFSEC's adjudicatory proceeding process and review and approval by the Governor.

**EFSEC and Local Government Agreements:** The EFSEC and any local government in the state are authorized to enter into an interlocal agreement for the purpose of permitting small alternative energy resource facilities within the geographic jurisdiction of the local government. The EFSEC may serve as the permitting authority for a local government if the local government determines that it would be more cost effective for the EFSEC to permit small alternative energy resource facilities within their jurisdiction.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.