

# SENATE BILL REPORT

## SHB 2527

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As Reported by Senate Committee On:  
Environment, Water & Energy, February 26, 2010

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

**Brief Description:** Regarding the energy facility site evaluation council.

**Sponsors:** House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Chase, Hudgins and Jacks).

**Brief History:** Passed House: 2/15/10, 96-2.

**Committee Activity:** Environment, Water & Energy: 2/24/10, 2/26/10 [DPA].

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### SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

**Majority Report:** Do pass as amended.

Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford, Ranking Minority Member; Delvin, Fraser, Morton and Ranker.

**Staff:** William Bridges (786-7416)

**Background:** The Energy Facility Site Evaluation Council (EFSEC) is the permitting and certificating authority for the siting of major energy facilities in Washington. EFSEC staff are part of the Department of Commerce and the Director of Commerce has supervisory authority over them.

EFSEC Jurisdiction. EFSEC's siting jurisdiction includes the following: (1) large natural gas and oil pipelines; (2) thermal electric power plants 350 megawatts (MWs) or greater and their dedicated transmission lines; (3) new oil refineries or large expansions of existing facilities; and (4) underground natural gas storage fields. In addition, energy facilities of any size that exclusively use alternative energy resources (wind, solar, geothermal, landfill gas, wave or tidal action, or biomass energy) can opt-in to the EFSEC process as well as certain electrical transmission lines. EFSEC's jurisdiction does not extend to hydro based power plants or thermal electric plants that are less than 350 MWs.

EFSEC Application Fee. A site certification application to EFSEC must be accompanied by a \$45,000 fee, or a lesser specified amount, that is applied toward the direct costs of

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processing the application, such as the retention of an independent consultant and a hearing examiner, as well as inspection and compliance costs.

EFSEC Fee for Inspection and Compliance Determinations. Within 30 days of executing a site certification agreement, the certificate holder must deposit \$20,000 or other specified amount, with EFSEC. The deposit covers EFSEC's reasonable and necessary costs directly attributable to inspecting and determining compliance with the terms of the site certification.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Recommended Amendments):** Expanding EFSEC Jurisdiction. Nuclear power facilities that primarily produce and sell electricity and certain biofuel refineries capable of processing more than 25,000 barrels per day are added to EFSEC's siting jurisdiction.

Increasing the Deposit for Processing an EFSEC Application. An applicant must deposit at least \$50,000 or a greater specified amount with EFSEC at the time an application is submitted. The deposit covers all of EFSEC's direct expenses that arise directly from processing the application.

Increasing the Deposit for Inspections and Compliance Determinations. Within 30 days of executing a site certification agreement, the certificate holder must deposit at least \$50,000 or a greater specified amount with EFSEC. The deposit covers all of EFSEC's direct expenses that arise from inspecting and determining compliance with the terms of the site certification.

Requiring the Payment of Site Restoration Costs. In addition to paying the reasonable costs associated with monitoring the effects of construction and the operation of an energy facility, the certificate holder must pay reasonable costs associated with site restoration of the facility.

Allocating Rulemaking Costs. Rulemaking costs incurred by EFSEC in implementing and administering this act must be proportionately divided among the certificate holders and applicants directly affected by this act.

**EFFECT OF CHANGES MADE BY ENVIRONMENT, WATER & ENERGY COMMITTEE (Recommended Amendments As Passed Committee):** Replaces the provisions SHB 2527 with provisions in SSB 6471: (1) clarifies that EFSEC has siting jurisdiction over any nuclear power facility if its primary purpose is to produce or sell electricity; (2) specifies that EFSEC does not have jurisdiction over biofuel refineries where biofuel production is undertaken at existing operating industrial facilities; (3) specifies that applicants and certificate holders are only required to pay EFSEC's direct costs for processing applications and inspections; (4) removes the provision transferring EFSEC from Commerce to the WUTC; and (5) provides that the rulemaking costs associated with this act must be proportionately divided among the certificated holders and applicants directly affected by this act.

**Appropriation:** None.

**Fiscal Note:** Available.

[OFM requested ten-year cost projection pursuant to I-960.]

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on Proposed Amendments As Heard in Committee:**

PRO: The prime sponsor supports the striking amendment as well as an amendment specifying that EFSEC does not have jurisdiction over biofuel refineries where biofuel production is undertaken at existing industrial facilities. The imperative provision in this bill extends EFSEC jurisdiction to new nuclear energy technology. Stakeholders worked diligently on the striking amendment and it now has their support. Existing pulp and paper mills may want to enter into biofuel refining production and they should not have to go through the EFSEC siting process if they want to enlarge their existing facilities. The striking amendment is an opportunity to begin a public discussion about new nuclear power projects in Washington. The striking amendment will also allow rulemaking on the siting of new nuclear power projects to go forward.

**Persons Testifying:** PRO: Representative Morris, prime sponsor; Jim Luce, EFSEC; Chris McCabe, Association of Washington Businesses; Jim Roland, Energy NW; Collin Sprague, Avista; Bill Stauffacher, NW Pulp & Paper Association, American Forest & Paper Association.