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**Technology, Energy & Communications  
Committee**

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**SB 5107**

**Brief Description:** Addressing renewable resource projects within energy overlay zones.

**Sponsors:** Senator Honeyford.

**Brief Summary of Bill**

- Provides that land use decisions establishing renewable resource projects within a county energy overlay zone are presumed to be reasonable to the extent that they are in compliance with requirements and standards established by ordinance for that zone.

**Hearing Date:** 3/4/09

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

**Background:**

The Land Use Petition Act.

The Land Use Petition Act (LUPA) was enacted in 1995 to provide uniform, expedited judicial review of land use decisions made by counties, cities, and unincorporated towns. Land use decisions subject to judicial review under the LUPA are limited to: (a) applications for project permits or approvals that are required before real property can be improved, developed, modified, sold, transferred, or used; (b) interpretations regarding the application of specific requirements to specific property; and (c) enforcement by local jurisdictions of ordinances relating to particular real property.

Land use decisions that do not fall under the LUPA are approvals to use, vacate, or transfer streets, parks and other similar types of public property, approvals for area-wide rezones and annexations, and applications for business licenses. In addition, the LUPA does not apply to land use decisions that are subject to review by legislatively-created quasi-judicial bodies, such

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as the Shorelines Hearings Board, the Environmental and Land Use Hearings Board, and the Growth Management Hearings Board.

A person seeking review of a land use decision must file a petition in superior court and serve all parties within 21 days of the issuance of the land use decision. The parties must follow certain procedures within specified time frames that are meant to expedite the judicial process.

Generally, the court sets a hearing within a few months of the filing of the petition. The court may affirm or reverse the land use decision or remand it for modification or further proceedings.

Relief may be granted based on the following grounds: (a) the decision maker followed an unlawful procedure or failed to follow a required procedure; (b) the land use decision is erroneous in its interpretation or application of the law; (c) the land use decision is not supported by evidence; (d) the land use decision is outside the authority or jurisdiction of the decision maker; or (e) the land use decision violates the petitioner's constitutional rights.

**Summary of Bill:**

Land use decisions establishing renewable resource projects within a county energy overlay zone are presumed to be reasonable to the extent that they are in compliance with the requirements and standards established by ordinance for that zone.

"Energy overlay zone" means a formal plan enacted by the county legislative authority which establishes suitable areas for siting renewable resource projects based on currently available resources and existing infrastructure with sensitivity to adverse environmental impact.

"Renewable resources" means electricity generation facilities fueled by: (a) water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) biomass energy utilizing animal waste, 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; (g) byproducts of pulping or wood manufacturing processes, including but not limited to bark, wood chips, sawdust, and lignin in spent pulping liquors; (h) ocean thermal, wave, or tidal power; or (i) gas from sewage treatment facilities.

**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.