

# HOUSE BILL REPORT

## HB 2117

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**As Reported by House Committee On:**  
Environment & Energy

**Title:** An act relating to authorizing authorities to address aerial firefighting aspects as part of permitting processes for communities at risk of wildfires.

**Brief Description:** Authorizing authorities to address aerial firefighting aspects as part of permitting processes for communities at risk of wildfires.

**Sponsors:** Representatives Barnard, Donaghy, Graham, Dent, Bronoske and Reeves.

**Brief History:**

**Committee Activity:**

Environment & Energy: 1/15/24, 1/30/24 [DPS].

**Brief Summary of Substitute Bill**

- Requires the Energy Facility Site Evaluation Council (EFSEC), upon receipt of an application for certification for certain energy facilities, to provide certain information about the proposed project to the Department of Natural Resources (DNR).
- Requires local government permitting authorities, including towns, cities, and counties, upon receipt of an application to construct certain energy facilities, to provide certain information about the proposed project to the DNR.
- Includes, in the scope of information that local governments and the EFSEC must provide to the DNR, a description of the proposed project, the location of the site, and the placement of the project upon the site.

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### HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

Signed by 13 members: Representatives Doglio, Chair; Mena, Vice Chair; Dye, Ranking Minority Member; Ybarra, Assistant Ranking Minority Member; Abbarno, Barnard, Duerr, Fey, Goehner, Lekanoff, Sandlin, Slatter and Street.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Berry and Ramel.

**Staff:** Robert Hatfield (786-7117).

**Background:**

Energy Facility Siting.

The Energy Facility Site Evaluation Council (EFSEC) coordinates all evaluation and licensing steps for siting certain energy facilities, as well as specifies the conditions of construction and operation. After evaluating an application, the EFSEC submits a recommendation either approving or rejecting an application to the Governor, who makes the final decision on site certification. If approved by the Governor, a site certification agreement is issued in lieu of any other individual state or local agency permits.

Energy facilities of any size that exclusively use alternative energy resources, such as wind or solar energy, may opt into the EFSEC review and certification process. Energy facilities that exclusively use alternative energy resources that choose not to opt in to the EFSEC review and certification process must instead receive applicable state and local agency development and environmental permits for their projects directly from each applicable agency and local government authority. Certain types of facilities, defined as energy plant facilities, are required to use the EFSEC review and certification process.

Alternative energy resources include the following types of energy facilities:

- wind;
- solar energy;
- geothermal energy;
- renewable natural gas;
- wave or tidal action;
- 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; and
- renewable or green electrolytic hydrogen.

Energy plant facilities include the following types of facilities:

- any nuclear power facility where the primary purpose is to produce and sell electricity;
- any nonnuclear stationary thermal power plant with generating capacity of 350,000

- kilowatts or more;
- facilities which will have the capacity to receive liquefied natural gas in the equivalent of more than 100 million standard cubic feet of natural gas per day;
- facilities which will have the capacity to receive more than an average of 50,000 barrels per day of crude or refined petroleum or liquefied petroleum gas which has been or will be transported over marine waters;
- any underground reservoir for receipt and storage of natural gas capable of delivering an average of more than 100 million standard cubic feet of natural gas per day; and
- facilities capable of processing more than 25,000 barrels per day of petroleum or biofuel into refined products except where such biofuel production is undertaken at existing industrial facilities.

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### **Summary of Substitute Bill:**

#### Energy Facility Siting—Energy Facility Site Evaluation Council.

Upon receipt of an application for an energy facility site certification proposing an energy plant or alternative energy resource that is connected to electrical transmission facilities of a nominal voltage of at least 115,000 volts, the Energy Facility Site Evaluation Council (EFSEC) must provide written notification to the Department of Natural Resources (DNR).

The notification must include, but not be limited to, the following:

- a description of the proposed energy plant or alternative energy resource;
- the location of the site;
- the placement of the energy plant or alternative energy resource on the site;
- the date and time by which comments must be received by the EFSEC; and
- the contact information of the EFSEC and the applicant.

The stated purpose of the written notification is to provide an opportunity for the DNR to comment upon the application, and to identify potential conflicts with its aerial wildfire response capabilities relating to the placement and operations of the energy plant or alternative energy resource, before a site certification application is approved. The time period set forth by the EFSEC for receipt of such comments does not extend the time period for the EFSEC's processing of the application.

#### Energy Facility Siting—Towns, Cities, and Counties.

Upon receipt of an application to construct an alternative energy resource that is connected to electrical transmission facilities of a nominal voltage of at least 115,000 volts, a county, city, or town must provide written notification to the DNR. The notification shall include, but not be limited to, the following:

- a description of the proposed alternative energy resource;
- the location of the site;
- the placement of the alternative energy resource on the site;

- the date and time by which comments must be received by the county, city, or town; and
- the contact information of the county, city, or town, and the applicant.

The stated purpose of the written notification is to provide an opportunity for the DNR to comment upon the application, and to identify potential conflicts with its aerial wildfire response capabilities relating to the placement and operations of the alternative energy resource before a construction permit is approved. The time period set forth by the county, city, or town for receipt of such comments does not extend the time period for the county's, city's, or town's processing of the application.

### **Substitute Bill Compared to Original Bill:**

The substitute bill strikes sections in the underlying bill establishing a new process for the permitting of utility-scale wind energy facilities that pose an obstruction to aerial firefighting activities.

The substitute bill requires the Energy Facility Site Evaluation Council, upon receipt of an application for certification for an alternative energy resource or energy plant, to provide certain information about the proposed project to the Department of Natural Resources (DNR), including a description of the proposed energy plant or alternative energy resource, the location of the site, and the placement of the energy plant or alternative energy resource on the site.

The substitute bill requires local government permitting authorities, including towns, cities, and counties, upon receipt of an application to construct an alternative energy resource, to provide certain information about the proposed project to the DNR.

The substitute bill states that the purpose of the notification to the DNR is to provide an opportunity for the DNR to comment upon the application, and to identify potential conflicts with its aerial wildfire response capabilities relating to the placement and operations of the proposed project, before a site certification application or construction permit is approved.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on January 31, 2024.

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

**Staff Summary of Public Testimony:**

(In support) The bill tries to give counties a say in their own safety by allowing them to decide for themselves what is safe and what may not be safe. Washington is likely to see an increase in wildfires in the future. There are tools available to help predict where wildfires are likely to occur. It is important to ensure that siting wind facilities does not imperil communities' ability to combat wildfire.

The bill acknowledges and preserves an important tool in wildland fire response. Last year, Benton County lost 7,000 acres in basically one day as a result of wildfire. Five different planes responded to that wildfire, and if those planes hadn't been able to respond to that fire, the fire would have been even more catastrophic.

It is important to be able to consider whether a wind project will impact aerial firefighting capabilities. The locations of some wind farms are already impacting local airports and their operations.

Wildfires occur in the Horse Heaven Hills area about every three to five years. Aerial firefighting is one of the most essential tools at protecting people and property from wildfires. It is important for a wind energy facility applicant to demonstrate that their wind facility will not impact aerial firefighting.

This bill would reduce risk to firefighters and the public. Effective aerial firefighting abilities must be preserved. There is concern that the ability to use aerial firefighting will be restricted by wind farms.

(Opposed) The existing State Environmental Policy Act process already requires an evaluation of fire risk.

(Other) Important health and safety considerations are already being addressed in the current siting process. This bill could interfere with that process. The Environmental Impact Statement on a recent wind energy project includes a mitigation measure in which the facility operator would shut down the turbines in the event of a wildfire that needed aerial firefighting capabilities. There is additional concern with the provision in the bill regarding projects that have already been permitted but not built.

**Persons Testifying:** (In support) Representative Stephanie Barnard, prime sponsor; Paul Krupin and David Sharp, Tri-Cities Community Action for Responsible Environmental Stewardship; Terri Cooper; Paul Jewell, Washington State Association of Counties; Linda Lehman; Kahryn Campbell, Anelare Winery; and Josh Weiss, Benton County.

(Opposed) Jeff Gombosky, Renewable Northwest.

(Other) Matt Miller, Puget Sound Energy; Jay Balasbas, PacifiCorp; and Glenn Blackmon, Department of Commerce, State Energy Office.

**Persons Signed In To Testify But Not Testifying:** None.