

HOUSE BILL REPORT

SHB 1037

As Amended by the Senate

Title: An act relating to siting electrical transmission under the energy facility site evaluation council.

Brief Description: Regarding electrical transmission.

Sponsors: By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Hudgins, Moeller and B. Sullivan).

Brief History:

Committee Activity:

Technology, Energy & Communications: 1/10/07, 1/17/07 [DPS].

Floor Activity:

Passed House: 2/5/07, 88-3.

Senate Amended.

Passed Senate: 4/12/07, 48-0.

<h3>Brief Summary of Substitute Bill</h3>

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| <ul style="list-style-type: none">• Allows a person developing new transmission in excess of 115 kilovolts to seek site certification through the Energy Facility Site Evaluation Council. |
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HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Morris, Chair; McCoy, Vice Chair; Crouse, Ranking Minority Member; McCune, Assistant Ranking Minority Member; Eddy, Hankins, Hudgins, Hurst, Takko and VanDeWege.

Staff: Scott Richards (786-7156).

Background:

The Energy Facility Site Evaluation Council (EFSEC) was created in 1970 to provide one-stop licensing for large energy projects. Council membership includes mandatory representation from five state agencies and discretionary representation from four additional state agencies.

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

The council's membership may include representatives from the particular city, county, or port district where potential projects may be located.

The EFSEC's jurisdiction includes the siting of large intrastate natural gas and petroleum pipelines, electric power plants above 350 megawatts, new oil refineries, large expansions of existing facilities, and underground natural gas storage fields. For electric power plants, EFSEC's jurisdiction extends to those associated facilities that include new transmission lines that operate in excess of 115 kilovolts and are necessary to connect the plant to the Northwest power grid. The EFSEC's jurisdiction includes the siting of electrical transmission facilities in excess of 115 kilovolts in national interest electric transmission corridors as designated by the United States Department of Energy or the Federal Energy Regulatory Commission under Section 1221 of the National Energy Policy Act. Developers of energy facilities that exclusively use alternative energy resources, regardless of the size of the facility's generation capacity, may choose to use the EFSEC process to site the facility.

The EFSEC siting process generally involves six steps: (1) A potential site study followed by an application; (2) State Environmental Policy Act review; (3) review for consistency with applicable local land use laws and plans; (4) a formal adjudication on all issues related to the project; (5) certain air and water pollution discharge permitting reviews as delegated by the U.S. Environmental Protection Agency; and (6) a recommendation to the governor who then decides whether to accept, reject, or remand the application. A certification agreement approved by the governor preempts any other state or local regulation concerning the location, construction, and operational conditions of an energy facility.

Under the EFSEC process, the applicant is required to pay the costs of the council in processing an application.

Summary of Substitute Bill:

A person developing new transmission facilities or expanding or reconstructing existing transmission facilities that operate in excess of 115 kilovolts, may choose to use the EFSEC process to obtain siting approval for the transmission facilities.

The definition of "transmission facility" is amended to include electrical transmission lines and related equipment designated for or capable of operating at a nominal voltage of at least 115 kilovolts.

The Energy Facility Site Evaluation Council is required, on or after July 1, 2009, to approve applications for siting of new transmission facilities or for expanding or reconstructing existing transmission facilities in corridors that have been designated for these facilities in a county or city comprehensive land use plan if the county or city has:

- identified electrical transmission facility corridors;
- adopted regulations for the siting of electrical transmission facilities; and
- coordinated its plan and regulations with adjacent jurisdictions.

EFFECT OF SENATE AMENDMENT(S):

- Creates an opt-in provision for the Energy Facility Site Evaluation Council (EFSEC) jurisdiction over multi-jurisdictional electrical transmission facilities: (1) lines of at least 115,000 volts in completely new corridors located in more than one jurisdiction; and (2) all other lines in excess of 115,000 volts in corridors that are not new or that are not in national interest electric transmission corridors.
- Creates that EFSEC's current jurisdiction over national interest electric transmission corridors applies to lines of at least 115,000 volts.
- Creates a preapplication process that requires negotiations and hearings before EFSEC can make siting recommendations in jurisdictions that have not identified corridors.
- Repeals a legislative finding that transmission lines at or below 115,000 volts have historically been regulated by local governments.
- Makes technical corrections.

Appropriation: None.

Fiscal Note: Available on original bill.

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

Staff Summary of Public Testimony:

(In support) Transmission is becoming the most precious commodity for moving electrical generation resources around, especially since passage of the renewable initiative portfolio standard. The initiative will require moving electricity generated by wind resources from increasingly farther away places, like Idaho, Montana and Wyoming. To meet our portfolio needs, transmission is going to become even more important, and it's a nightmare to site.

One of the fallouts from the Enron debacle is that a lot of the utilities no longer have the capital or credit ratings they used to have. As a result, a lot of these lines are funded by private financiers. Unlike utilities, they do not have the right of eminent domain to site their own transmission. This bill would allow a company developing a transmission line to have a process for working across several jurisdictions. The EFSEC siting process is the best I've seen.

The EFSEC process allows local governments to have a seat at the table and be a part of the adjudication board on siting transmission projects. This keeps proposed projects from being strung out through the court system. The EFSEC process makes projects come to a resolution and get completed.

This bill would provide a centralized, inclusive and efficient process for siting transmission facility. The EFSEC process encourages transparency. Also, the bill addresses current transmission bottlenecks and would result in lowering the cost of developing transmission

lines and improve reliability of the grid. The bill allows transmission line developers to opt-in to the EFSEC siting process. No one is required to do so.

There is a call in the Growth Management Act for local jurisdictions to identify energy corridors and many jurisdictions have not done so. This situation may be what brings this bill in front of the Legislature.

(Concerns) Members of the Washington Association of Counties have mixed reactions to the bill. Generally, members are opposed to state preemption of local decision making, while on the other hand some members would like not to have these decisions in front of them.

(Opposed) Members of the Association of Washington Cities (Association) are opposed to the bill and are disappointed that this issue is under consideration again this session. Local governments have land use laws they follow that address the siting of transmission lines. Members of the Association prefer to leave transmission siting authority where it is. It's unclear whether a problem exists with the siting of transmission lines. Local governments have been siting these facilities with few problems. An education process is recommended that would talk about the transmission needs going forward and what the problems may be on the local environment.

Persons Testifying: (In support) Representative Morris, prime sponsor; Ken Johnson, Puget Sound Energy; Chris McCabe, Association of Washington Business; Tim Boyd, Industrial Customers of Northwest Utilities; Kathleen Collins, PacifiCorp; and Jim Luce, Energy Facility Site Evaluation Council.

(Concerns) Eric Johnson, Washington State Association of Counties.

(Opposed) Victoria Lincoln, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.