HOUSE BILL REPORT
SHB 1037

As Passed Legislature

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.
House Concurred.
Passed House: 4/17/07, 98-0.
Passed Legislature.

Brief Summary of Substitute Bill

- Allows a person developing electric transmission facilities of at least 115,000 volts to seek site certification through the Energy Facility Site Evaluation Council (EFSEC).
- Establishes a preapplication process that requires negotiations and hearings before EFSEC can make siting recommendations in jurisdictions that have not identified electric transmission corridors.

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

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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 a part of the legislation nor does it constitute a statement of legislative intent.

Minority Member; McCune, Assistant Ranking Minority Member; Eddy, Hankins, Hudgins, Hurst, Takko and VanDeWege.

Staff: Scott Richards (786-7156).

Background:

Energy Facility Site Evaluation Council (EFSEC)
The EFSEC is the one-stop permitting and certificating authority for the siting of major energy facilities in Washington. The EFSEC's jurisdiction does not extend to general electrical transmission lines; however, it does have jurisdiction over (1) new transmission lines that operate in excess of 115 kilovolts that are necessary to connect a power plant to the region's power grid, and (2) electrical transmission facilities in "national interest electric transmission corridors" as designated by the U.S. Secretary of Energy.

Federal Electrical Transmission Study
In August 2006, the Department of Energy issued the first National Electric Transmission Congestion Study (Study), which identified three classes of congestion: (1) areas where near-term action is needed, called "critical congestion areas"; (2) areas where additional analysis and information appear to be needed, called "congestion areas of concern"; and (3) areas where congestion would become a problem if new generation were to be developed without considering new transmission, called "conditional congestion areas."

Summary of Substitute Bill:

Electric Transmission Facilities Opt-in Provisions
A person may choose to use the EFSEC siting process when developing electric transmission facilities of at least 115,000 volts located in a completely new corridor and the facilities are located in more than one jurisdiction that has promulgated land use plans or zoning ordinances.

A person may choose to use the EFSEC siting process when developing electric transmission facilities in excess of 115,000 volts and the facilities are located outside of a national interest electric transmission corridor and are not new corridors.

Electrical Transmission Facilities Preapplication Process
A person considering applying for a site certification agreement for any transmission facility may initiate a preapplication process. The preapplication process is initiated by written correspondence from the preapplicant to the EFSEC, and includes the process adopted by the EFSEC for consulting with the preapplicant and with cities, towns, and counties prior to accepting applications for transmission facilities.

The EFSEC shall consider and may recommend certification of electrical transmission facilities in corridors by affected cities, towns, or counties, where:

- the jurisdictions have identified electrical transmission facility corridors as part of their land use plans and zoning maps based on policies in their plans;

- the proposed electrical transmission facility is consistent with any adopted development regulations that govern the siting of electrical transmission facilities in such corridors; and
- contiguous jurisdictions in which related regional electrical transmission facilities are located have either prior to or during the preapplication process undertaken good faith efforts to coordinate the locations of their corridors consistent with the Growth Management Act.

In the absence of a corridor designation as part of land use plans and zoning maps, preapplicants are required to negotiate for a reasonable time with affected cities, towns, and counties to attempt to reach agreement about a corridor plan. If no corridor plan is agreed to by the applicant and cities, towns, and counties, the applicant shall propose a recommended corridor and electrical transmission facilities to be included within the proposed corridor.

The EFSEC shall develop and adopt rules to govern the process. Preapplicants are required to pay the EFSEC a fee of $10,000 to be applied to the cost of the process.

National Interest Electric Transmission Corridors
The EFSEC jurisdiction over national interest electric transmission corridors applies to electric transmission lines of at least 115,000 volts.

A legislative finding that transmission lines at or below 115,000 volts have historically been regulated by local government is repealed.

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.