

# SENATE BILL REPORT

## SB 5206

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As of January 27, 2021

**Title:** An act relating to eliminating expedited processing of an alternative energy resource facility fueled by solar energy on certain designated lands before the energy facility site evaluation council.

**Brief Description:** Eliminating expedited processing of an alternative energy resource facility fueled by solar energy on certain designated lands before the energy facility site evaluation council.

**Sponsors:** Senators Warnick and Short.

**Brief History:**

**Committee Activity:** Environment, Energy & Technology: 1/27/21.

**Brief Summary of Bill**

- Prohibits the use of the Energy Facility Site Evaluation Council's (EFSEC) expedited processing for applicants seeking certification of solar energy projects sited on agricultural lands that have long-term significance for the commercial production of food or other agricultural products as designated under law.

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### SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

**Staff:** Kimberly Cushing (786-7421)

**Background:** Energy Facility Site Evaluation Council. Created in 1970, the Energy Facility Site Evaluation Council (EFSEC) is the permitting and certifying authority for siting major energy facilities in Washington. EFSEC's siting jurisdiction includes large energy facilities, such as nuclear power plants of any size and thermal electric power plants with a generating capacity of 350 megawatts or greater. Energy facilities of any size that exclusively use alternative energy resources can also opt-in to the EFSEC review and

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certification process.

Under current law, any person filing an application for certification of an energy facility or an alternative energy resource facility may apply to the EFSEC for an expedited application. EFSEC may grant an applicant expedited processing if they find the environmental impact of the proposed energy facility is not significant or will be mitigated to a nonsignificant level under the State Environmental Policy Act and the project is found to be consistent and in compliance with city, county, or regional land use plans or zoning ordinances.

An alternative energy resource includes energy facilities of the following types: wind, solar energy, geothermal energy, landfill gas, wave or tidal action, or biomass energy based on solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces treated with chemical preservatives.

Agricultural Lands of Long-Term Commercial Significance. The Growth Management Act (GMA) is the comprehensive land-use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land-use designation and environmental protection requirements for all Washington counties and cities, and a significantly wider array of planning duties for the 29 counties and the cities within that are obligated, by mandate or choice, to satisfy all planning requirements of the GMA.

Under the GMA, all counties and cities are obligated to designate, where appropriate, natural resource lands of long-term commercial significance, and environmentally sensitive areas. These designation requirements apply to:

- agricultural lands not already characterized by urban growth and that have long-term significance for the commercial production of food or other agricultural products;
- forest lands not already characterized by urban growth and have long-term significance for the commercial production of timber;
- mineral resource lands not already characterized by urban growth and have long-term significance for the extraction of minerals; and
- environmentally sensitive areas known as critical areas.

**Summary of Bill:** The Legislature finds that EFSEC's certification process undermines opportunities for local review of solar energy facilities sited on agricultural lands that have long-term significance for the commercial production of food or other agricultural products.

An alternative energy resource facility that chooses to receive certification from EFSEC is not eligible for expedited processing if it is fueled by solar energy sited on agricultural lands of long-term commercial significance as designated under the GMA.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: This is not an anti-solar or property rights bill. EFSEC should be required to allow the local county process to work, which is important for rural counties. Renewable energy development is essential to the future, but so is the protection of agricultural lands, which are severely threatened. The impact will remove land from food production. Farmers should be involved and local communities should be empowered to make these decisions. Local commissioners have an interest in vetting alternative energy and a duty to protect prime irrigated farm land and preserve rural character. Carbon sequestration is lost when land is covered. We have alternatives and do not need to put solar on agricultural land. Solar investors will use water that will impact farming. The tribes need to be consulted. If local ordinances are too strict the solar companies will bypass and go to EFSEC. Most counties have zoning to handle these types of processes. The EFSEC process should not be used for small projects avoiding local land decisions.

CON: EFSEC has approved one expedited solar application. A lot of solar issues are not caused by EFSEC. The bill overly restricts EFSEC's ability to use expedited processing. EFSEC can only use expedited processing for alternative resources if two criteria are met: the environmental impact is non significant and the findings are consistent with local ordinances.

OTHER: The build-out of clean electricity should be good for the community. We want a least-conflict stakeholder driven process. We support clean energy development and recognize it creates siting concerns. Solar is proceeding rapidly and the conversation needs to catch up. We need to take into account habitat impacts as well. The GMA has little meaning in protecting rural character. Solar projects can be compatible with agriculture. The bill results in less certainty. The need for clean energy is significant and renewables do not have to be built in Washington. The bill singles out solar and no other alternative energy. We do not want to sacrifice prime farm land. Once farm land is lost, it is permanent. Solar use is not permanent.

**Persons Testifying:** PRO: Senator Judy Warnick, Prime Sponsor; Addie Candib, American Farmland Trust; Tom Davis, Washington Farm Bureau; Laura Osiadacz, Kittitas County Commissioner; Dick Carkner, Save Our Farms; Greg Wagner, Citizens Educated About Solar Energy; Elaine Harvey, Klickitat County resident; Paul Jewell, Washington State Association of Counties.

CON: Kathleen Drew, Energy Facility Site Evaluation Council.

OTHER: Adam Maxwell, Audubon Washington; Michael Garrity, Washington Department

of Fish and Wildlife; Jeff Dunning; Jeff Gombosky, Renewable Northwest; Bill Will, Washington Solar Energy Industries Association.

**Persons Signed In To Testify But Not Testifying:** No one.