

HOUSE BILL REPORT

HB 1173

As Reported by House Committee On:
Environment & Energy

Title: An act relating to reducing light pollution associated with certain energy infrastructure.

Brief Description: Reducing light pollution associated with certain energy infrastructure.

Sponsors: Representatives Connors, Klicker and Rude.

Brief History:

Committee Activity:

Environment & Energy: 1/16/23, 2/2/23 [DPS].

Brief Summary of Substitute Bill

- Requires new and existing wind energy facilities to mitigate light pollution through the use of aircraft detection lighting systems, or through alternative forms of light mitigation if federal requirements preclude the installation of an aircraft detection lighting system at a facility.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Doglio, Chair; Mena, Vice Chair; Dye, Ranking Minority Member; Ybarra, Assistant Ranking Minority Member; Abbarno, Barnard, Berry, Couture, Duerr, Fey, Goehner, Lekanoff, Ramel, Slatter and Street.

Staff: Jacob Lipson (786-7196).

Background:

[Energy Facility Siting.](#)

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.

The Energy Facility Site Evaluation Council (EFSEC) was established in 1970 to provide a single siting process for major energy facilities located in the state. The 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. This recommendation must be reported to the Governor within 12 months of application receipt, or at a later time if agreed to by the applicant and the EFSEC. The recommendation must include a draft certification agreement, which must include various conditions including conditions to protect state, local, and community interests affected by the construction or operation of the energy facility. If approved by the Governor, a site certification agreement is issued in lieu of any other individual state or local agency permits.

The laws that require or allow a facility to seek certification through the EFSEC process apply to the construction, reconstruction, and enlargement of energy facilities, biorefineries, and electrical transmission facilities, with many specifications. 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 agency.

Light Pollution and Mitigation.

The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land use plans. Projects and government decisions undergoing environmental review under SEPA must evaluate associated potential impacts to light and glare, aesthetics, and scenic resources, among other elements of the environment covered by SEPA review.

Some cities and counties have adopted ordinances that regulate aspects of outdoor lighting. Ordinances adopted by local governments in Washington to limit outdoor lighting include measures that:

- limit the illuminating power of outdoor lights;
- specifically restrict certain uses of lighting, such as illuminated athletic fields or industrial sources of light; or
- require that outdoor lights be positioned or shaded so as to limit illumination of neighboring properties or other features.

Federal Aviation Administration Requirements.

The Federal Aviation Administration (FAA) has adopted rules and advisory standards that apply to obstructions that have been deemed a hazard to air navigation, including structures that reach at least 500 feet above the ground. Specific FAA standards apply to the lighting

of wind turbines, and also establish performance specifications for aircraft detection lighting systems, which are sensor-based systems designed to detect aircraft as they approach an obstruction or group of obstructions.

Summary of Substitute Bill:

Utility-scale wind energy owners or operators must operate with an aircraft detection lighting system (ADLS) to mitigate light pollution from the facility. Utility-scale wind energy facilities include any facilities for which the Federal Aviation Administration (FAA) requires obstruction lights or any facility with at least one wind turbine of at least 75 feet in height, and obstruction lights. If a facility is precluded from using an ADLS as a consequence of federal requirements, the facility must mitigate light pollution through the best available light mitigation means, as demonstrated to the Department of Ecology (Ecology).

ADLS light mitigation requirements apply beginning January 1, 2026, for existing wind energy facilities that have received site certification through the Energy Facility Site Evaluation Council (EFSEC) or all applicable permits from state agencies and local governments. For all other facilities, the requirements begin upon completion of construction of the facility.

Ecology must prepare and distribute information regarding light mitigation requirements to wind energy facility owners and operators. Ecology is authorized to enforce light mitigation requirements, and violations of light mitigation requirements are subject to a \$5,000 penalty per violation per day. Penalties are appealable to the Pollution Control Hearings Board. Ecology may not penalize a wind energy facility operator that submits an ADLS application to the FAA by January 1, 2025, but that has not received an FAA determination as of July 1, 2025, until six months after the FAA issues a determination on the application.

Actions to mitigate light pollution at an existing wind energy facility are exempt from review under the State Environmental Policy Act.

A severability clause is included.

Substitute Bill Compared to Original Bill:

As compared to the original bill, the substitute bill:

- makes light pollution mitigation for wind energy facilities a stand-alone regulatory requirement to be enforced by the Department of Ecology (Ecology), rather than a condition of Energy Facility Site Evaluation Council (EFSEC) certification or local government permitting;
- eliminates the requirement that Ecology adopt rules to establish light mitigation

standards, and narrows the light mitigation requirements to require owners and operators of wind energy facilities to operate with an aircraft detection lighting system;

- limits light mitigation requirements to apply only to utility-scale wind energy facilities that are required by the Federal Aviation Administration (FAA) to have obstruction lights or to wind energy facilities with obstruction lights and at least one turbine exceeding 75 feet in height, as measured to the middle of a wind turbine's rotor;
- requires any wind energy facilities that are precluded from using an aircraft detection lighting system by the FAA to mitigate light pollution through alternative means demonstrated to Ecology to be the best available light mitigation option for the facility;
- provides that wind energy facilities are not required to mitigate light pollution in a manner that conflicts with federal requirements, including FAA requirements;
- requires Ecology to enforce light pollution mitigation requirements and prepare and distribute information to wind energy facility owners and operators, but does not authorize Ecology to adopt rules pertaining to this enforcement role;
- prescribes a penalty of up to \$5,000 per day per violation, and makes penalties appealable to the Pollution Control Hearings Board;
- provides that a penalty may only be issued after a written notification and a 60-day period to achieve compliance;
- provides that the owner or operator of an existing utility-scale wind energy facility that submits an application to the FAA for the approval of an aircraft detection lighting system by January 1, 2025, but that has not received a determination from FAA by July 1, 2025, may not be penalized for noncompliance with light mitigation requirements until at least six months after the FAA makes a determination;
- exempts actions to mitigate light pollution at existing utility-scale wind energy facilities from review under the State Environmental Policy Act; and
- provides an emergency clause, making the act take effect immediately.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) The blinking lights on windmills can be a distraction and detract from the beauty of the communities that they are situated in. Other states have enacted laws to require motion sensors to be attached to windmill lights in order to reduce the number of hours that they remain on. Warning lights need to be on windmills for aircraft safety, but

do not need to be activated more than two or three percent of the time in some cases. These aircraft detection lighting systems turn the lights on when planes are nearby, and then shut them off as soon as the airplane is a safe distance away. Many new windmill facilities are anticipated to be sited in Eastern Washington, and a particularly large windfarm is slated to be sited within a few miles of the Tri-Cities that will have significant impacts on a large number of people. Blinking windmill lights and other impacts from the project have the potential to affect the mental health of nearby residents and hurt the tourism industry. It is not cost-prohibitive to install aircraft detection lighting systems, and represents a small fraction of the overall cost of a wind energy development project. The people of the Tri-Cities will appreciate the Legislature for making this step to reduce the public health impacts on them.

(Opposed) None.

(Other) Businesses would be concerned if the requirements to retrofit existing wind energy facilities resulted in higher electric power rates. The requirements on wind energy facilities to mitigate light pollution should not be so stringent that it results in facilities being sited outside of Washington instead of in Washington.

Persons Testifying: (In support) Representative April Connors, prime sponsor; Paul Krupin; and James Conca, UFA Ventures.

(Other) Peter Godlewski, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.