SENATE BILL REPORT
SB 5241

As of January 21, 2025

Title: An act relating to adding fusion energy to facilities that may obtain site certification for the purposes of chapter 80.50 RCW.

Brief Description: Adding fusion energy to facilities that may obtain site certification for the purposes of chapter 80.50 RCW.

Sponsors: Senators Liias, Boehnke, Christian, Cortes, Dozier, Hasegawa, MacEwen, Nobles, Saldaña, Salomon, Shewmake and Wilson, J.; by request of Energy Facilities Siting and Evaluation Council.

Brief History:
Committee Activity: Environment, Energy & Technology: 1/21/25.

Brief Summary of Bill

- Allows fusion energy facilities to opt in to the Energy Facility Site Evaluation Council (EFSEC) certification process.
- Replaces references to nuclear energy with fission nuclear throughout EFSEC statutes.

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 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, EFSEC submits a recommendation either approving or rejecting an application to the Governor, who makes

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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.

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, including nuclear power plants of any size; 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; clean energy product manufacturing facilities; and storage facilities may opt into the EFSEC certification process. The facilities that choose not to opt in to the EFSEC certification process must instead receive applicable state and local agency development and environmental permits for their projects directly from each agency.

Fusion. For the purposes of the state energy strategy, fusion energy is defined as energy production derived directly or indirectly from the merger of atomic nuclei.

In 2024, the Legislature directed EFSEC and the Department of Health to establish a fusion energy work group (work group) of state agencies to identify and evaluate new and existing permitting, siting, licensing, and registration pathways for producing fusion energy. The work group provided the following recommendations to the Legislature in December 2024, amend EFSEC's statute to:

- distinguish between fusion and fission; and
- provide fusion energy facilities with the choice of a siting and permitting process that best suits their needs: the local government-led process, the Department of Ecology's coordinated clean energy permit process, or opting into the EFSEC process.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Fusion energy facilities are included in the list of facilities that may choose to use the EFSEC certification process. A fusion energy facility receiving EFSEC certification must also secure required licenses and registrations, or equivalent authorizations, for radiation control purposes from designated state or federal agencies.

The definition of energy plant is amended to specify that it includes fission nuclear power facilities. Additional references to nuclear energy are replaced with fission nuclear energy throughout EFSEC's chapter.

Appropriation: None.

Fiscal Note: Requested on January 17, 2025.

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 On Proposed Substitute: PRO: Fusion is the power of the sun taking two light atoms—isotopes of hydrogen found readily available in water—smashing them together to make helium that produces enormous amounts of energy with no greenhouse gas emissions, long-lived radioactive waste, or other safety risks often associated with nuclear fission. Washington has an exciting and intriguing emerging global fusion hub. The current bill stems from last session's policy discussion on fusion and directed EFSEC and DOH to form an interagency work group for fusion energy: there is a desire for a regulatory process that would provide flexibility to the industry as each fusion company pursues its unique technological approaches; and the EFSEC statute currently does not distinguish between nuclear fusion and nuclear fission and could be read to require developers to only use the EFSEC process to permit and site a fusion energy facility. The bill is intended to remove any obstacles to the development of the fusion industry within the state without getting ahead of the work that's being done at the federal level. When looking at new electric loads, fusion gives us optimism that we'll find pathways for balancing those.

OTHER: The bill is aimed at clarifying the regulatory pathway for the fusion industry. Specifically, it proposes updating the language in statute to clearly distinguish fusion and fission, and offers legal clarity and flexibility to support the emerging industry allowing fusion companies to opt in to the EFSEC process. Given the existing comprehensive siting and permitting pathways, DOH is committed to ensuring that fusion project developers have the options that they need while maintaining the regulatory processes for licensing and registration directly within DOH.

Persons Testifying: PRO: Senator Marko Liias, Prime Sponsor; Sonia Bumpus, Energy Facility Site Evaluation Council; Isaac Kastama, Clean & Prosperous Washington; Tom Bugert, Helion Energy.

OTHER: Jill Wood, Washington State Department of Health.

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