

SENATE BILL REPORT

SB 5359

As Reported by Senate Committee On:
Environment, Energy & Technology, February 18, 2025

Title: An act relating to accelerating the development of clean energy and transmission.

Brief Description: Accelerating the development of clean energy and transmission. [**Revised for 1st Substitute:** Accelerating the development of clean energy.]

Sponsors: Senators Shewmake, Hasegawa, Nobles, Salomon and Stanford; by request of Department of Commerce.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/31/25, 2/18/25 [DPS-WM, DNP, w/oRec].

Brief Summary of First Substitute Bill

- Establishes a clean energy siting and development as a priority for the Department of Commerce (Commerce).
- Authorizes a work group to identify best practices and develop tools for siting and permitting large-scale battery energy storage systems.
- Authorizes Commerce to support local governments integrating clean energy development into planning and zoning requirements under the Growth Management Act.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: That Substitute Senate Bill No. 5359 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Shewmake, Chair; Slatter, Vice Chair; Dhingra, Liias, Ramos and Wellman.

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.

Minority Report: Do not pass.

Signed by Senators Harris and Short.

Minority Report: That it be referred without recommendation.

Signed by Senators Boehnke, Ranking Member; Lovelett and MacEwen.

Staff: Kimberly Cushing (786-7421)

Background: Beveridge and Diamond Report. In 2023, the Legislature directed the Department of Commerce (Commerce) to contract with an external, independent third party to:

- carry out an evaluation of state agency siting and permitting processes for clean energy projects and related federal and state regulatory requirements, including the energy facility site evaluation council permitting process authorized in statute;
- identify successful models used in other states for the siting and permitting of projects similar to clean energy projects, including local and state government programs to prepare build-ready clean energy sites; and
- develop recommendations for improving these processes, including potential policy changes and funding, with the goal of more efficient, effective siting of clean energy projects, by July 1, 2024.

Commerce contracted with Beveridge and Diamond, PC, to develop a report that identified a set of recommended best practices for permitting in Washington. One of several recommendations was to create a permitting oversight and information clearing house located in a new or existing agency, charged with developing or providing the following functions: a permitting dashboard, mapping, a least-conflict process, renewable energy zones, technical assistance, a pre-application roundtable, and standard community benefit agreements.

Clean Energy Projects. Under current law, a clean energy project includes facilities for clean energy product manufacturing, electric transmission, producing nonemitting electric generation or electric generation from renewable resources, storage, biofuel, biomass, and alternative jet fuel. A clean energy product manufacturing facility is a facility or project that manufactures products or components used by zero-emission vehicles, charging and fueling infrastructure for zero-emission vehicles, renewable or green electrolytic hydrogen; facilities that produce clean energy or semiconductors; or upgrades undertaken by emissions-intensive, trade-exposed industries to reduce greenhouse gases.

Growth Management Act. The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. The GMA establishes land use designation and environmental protection requirements for all Washington counties and cities. Commerce serves as the central coordinator of the GMA for state government.

Commerce must offer technical and financial assistance to cities and counties planning

under the GMA, and help local officials interpret and implement the different requirements of the GMA through workshops, model ordinances, and information materials. Commerce must also provide alternative dispute resolution to jurisdiction and organizations to mediate disputes and facilitate implementation of the GMA.

Summary of Bill (First Substitute): Clean Energy Siting and Development. Clean energy siting and development is established as a priority for Commerce. To that end, Commerce must:

- share information to guide and support siting clean energy projects;
- conduct planning and development functions to help achieve adequate, reliable, and affordable clean energy generation, and manufacturing; and
- support tribes, local governments, and communities to enhance local and equitable benefits associated with clean energy facilities.

Subject to amounts appropriated, the Commerce may engage in the following activities:

- provide information to enhance the public understanding of clean energy technologies;
- collaborate with the Interagency Clean Energy Siting and Coordinating Council and other state agencies to identify best practices to support local governments with siting and permitting emerging clean energy technologies; and address issues and concerns related to emerging clean energy technologies, including safety, emergency response, zoning, siting, and permitting;
- support tribally led clean energy development, and provide technical assistance and assistance in accessing governmental funding;
- develop guidance and templates for community benefits agreements and project labor agreements to support and to enhance the benefits from clean energy projects to communities and workers and reflect input from specified parties;
- provide technical assistance to communities and developers to create community benefit agreements and project labor agreements;
- support deployment of dual-use clean energy technologies and colocation with agricultural uses through research and development, pilot projects, and local planning and zoning integration;
- assess the efficiency and effectiveness of clean energy project tax provisions; and
- participate in other activities as directed by the Legislature, Governor, or director of Commerce.

Large-Scale Battery Energy Storage System Work Group. Subject to amounts appropriated, Commerce may identify best practices for siting and permitting large-scale battery energy storage systems. To do this, it may convene a work group that develops statewide tools to support local governments and state regulatory authorities. Work group members may include tribal, city, and county representatives; battery energy storage developers and experts; state regulatory authorities; emergency responders; environmental justice interests; and other stakeholders with relevant expertise.

If the work group is convened, it must:

- address the range of issues and concerns related to battery energy storage, including safety, emergency response, zoning, siting, and permitting;
- incorporate information from nonproject environmental impact statements addressing colocated batteries; and
- develop a menu of options or templates for battery energy storage facility policies and regulations that local jurisdictions can tailor for their needs.

Commerce must submit a report to the Governor and Legislature summarizing the findings and recommendations of the work group, by July 1, 2026.

Growth Management Act. Commerce may provide technical assistance and ongoing liaison support to local governments to integrate clean energy development into planning and zoning requirements under the GMA. The assistance and support must include methods and best practices for siting clean energy projects and transmission facilities, and for collocation of energy facilities with agricultural operations, environmental conservation, and other uses.

Commerce may provide alternative dispute resolution services, including mediation, to help resolve disputes between any combination of local governments, tribes, and project applicants attempting to site clean energy projects or electrical transmission facilities. Alternative dispute resolution processes may require unique provisions for tribes. Information provided by a federally-recognized Indian tribe must be confidential and exempt from public disclosure under the Public Disclosure Act.

EFFECT OF CHANGES MADE BY ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE (First Substitute):

- Removes the Clean Energy Development Office (Office), and instead establishes clean energy siting and development as a priority for Commerce.
- Directs Commerce to engage in specified activities, rather than the Office.
- Removes specific authorization for several of the enumerated activities such as:
 1. develop and make publicly available geospatial and visualization tools;
 2. partner on workforce and training initiatives; and
 3. support transmission planning and development.
- Specifies the guidance and templates for community benefits agreements and project labor agreements must reflect input from certain groups.
- Authorizes, rather than requires, Commerce to convene a work group to identify best practices and develop tools for siting and permitting large-scale batteries.
- Removes the reporting requirement to assess the feasibility and potential benefits of a build-ready clean energy program to accelerate the use of underutilized locations for clean energy projects.
- Authorizes, rather than requires, Commerce to support local governments integrating clean energy development into planning and zoning requirements under the GMA and

- to provide alternative dispute resolution services for siting clean energy projects or transmission facilities.
- Specifies that any information provided by a federally recognized Indian tribe as part of alternative dispute resolution services must be kept confidential and exempt from public disclosure.
 - Removes the definition section.
 - Modifies intent language.

Appropriation: The bill contains a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

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 on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: We know that if we can protect the places birds need for survival, we'll also be protecting the places people need now and in the future. We need a new model for meeting the state's clean energy and biodiversity obligations. The bill helps to ensure that clean energy projects are built in the right places protecting birds and habitat and tribal values. We also support research into the feasibility of a build-ready model that offers an opportunity to flip the energy development model, making prescreened, derisk sites that prioritize biodiversity along with tribal and cultural values that are available to interested developers from the outset.

The bill accurately identifies that Washington needs to double its electricity consumption by 2050 and that to do that most efficiently, two-thirds of that new generation has to touch down here in Washington. This infrastructure need is really without precedent. It is really hard to be a member of the public to understand whether the pace and scale is adequate, so the dashboard for clean energy project tracking will add value and bolster existing processes in the state and would be a natural follow-up to the WSU least-conflict solar siting process to support clean energy developers and local communities in identifying and mitigating for project impacts.

To meet our clean energy mandates under law, it is important that state agencies take a more active role in clean energy siting. This is the natural next step for the state to really build the state's capacity to support on clean energy siting processes and improve them early and upfront. We support the work group to encourage siting of battery energy storage systems, which is a fundamental part of our clean energy transition, to find alignment on best practices, model ordinances, and to offer technical assistance. Most of the work identified in this bill was recommended through previous bills, regulatory processes, and studies.

Siting is going to require better planning, respect for tribal sovereignty, making sure benefits accrue to local communities, having strong labor requirements for projects, supporting local governments and their planning obligations, and just generally innovating better approaches to identifying where and how to develop new energy resources. This bill would create a new office that can really take the lead on these and other priorities. As a state, we really can't afford to just sit back and hope that that coordination happens.

CON: The state needs to take a reductive, not additive, approach toward programs and policies that help make a clean energy infrastructure easier and faster and more certain to build. This is adding another step, another layer, another process.

OTHER: Commerce should consult with general contractors and women in minority-owned firms when it develops guidance and templates for community benefits agreements and project labor agreements to support clean energy project developers. We recognize that new generation and transmission resources will be essential for Washington to achieve its clean energy goals while maintaining reliable service, but we doubt that the planning and development tasks will be of significant help. Utility and regional experts already perform generation planning and transmission work. Utilities have integrated resource plan implementation plans, clean energy implementation plans, conservation potential assessments, and many other sorts of planning efforts that are required by state law. It might be helpful if the new office results in a common understanding among state agencies about state priorities for permitting clean energy technologies in order to ease the permitting of new transmission and generation resources.

Persons Testifying: PRO: Senator Sharon Shewmake, Prime Sponsor; Brynn Brady, Audubon WA; Ben Blank; Rebecca Ponzio, Washington State Department of Commerce; Dan Siemann, Washington State Department of Commerce; Justin Allegro, The Nature Conservancy; Altinay Karasapan; Caitlin Krenn, Washington Conservation Action.

CON: Peter Godlewski, Association of Washington Business.

OTHER: Jerry VanderWood, Associated General Contractors (AGC) of WA; Nicolas Garcia, WPUDA.

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