
Environment & Energy Committee

HB 1871

Brief Description: Establishing a moratorium on the siting of alternative energy facilities through the energy facility site evaluation council process pending a comprehensive performance report on the effects of the energy independence act and the recommendations of a joint legislative committee.

Sponsors: Representatives Klicker, Dent, Chase, Ybarra and Sutherland.

Brief Summary of Bill

- Directs the Department of Commerce to complete a report on alternative energy siting inequity by December 2022, with consultation from a utility technical advisory group that the Department of Commerce must form.
- Establishes a Joint Select Committee on alternative energy facility siting, to make recommendations to the Legislature by December 2023.
- Prohibits the Energy Facility Site Evaluation Council from submitting recommendations to the Governor and prohibits the Governor from acting on pending recommendations related to proposed alternative energy facilities until the Department of Commerce's 2022 report and the Joint Select Committee's 2023 recommendations are published.

Hearing Date: 1/21/22

Staff: Megan McPhaden (786-7114).

Background:

The Energy Facility Site Evaluation Council.

The Energy Facility Site Evaluation Council (EFSEC) was established in 1970 to provide a

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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. The Governor, with the advice and consent of the Senate, appoints the EFSEC Chair, and along with the EFSEC Chair, the permanent membership of the EFSEC includes the leadership of the Departments of Ecology, Fish and Wildlife, Commerce, Natural Resources, and the Utilities and Transportation Commission. Other agencies, local legislative authorities, and port districts may participate on the EFSEC under certain conditions. After evaluating an application for site certification, the EFSEC submits a recommendation either approving or rejecting the application to the Governor, who makes the final decision on site certification. The EFSEC 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.

If approved by the Governor, a site certification agreement is issued in lieu of any other individual state or local agency permits.

The EFSEC process applies to the construction, reconstruction, and enlargement of energy facilities, biorefineries, and electrical transmission facilities, with many specifications. For example, the EFSEC has siting authority over energy facilities including nuclear power plants of any size, thermal electric power plants with a generating capacity of 350 megawatts or greater, and other facilities that meet specified capacity thresholds to receive, store, process, or produce various energy types. The EFSEC's jurisdiction does not extend to hydropower facilities or facilities operated by and for the armed services or by another federal authority for national defense.

Energy facilities of any size that exclusively use alternative energy resources may opt into the EFSEC review and certification process. Alternative energy resources include: wind; solar energy; geothermal energy; landfill gas; wave or tidal action; and biomass energy with certain conditions.

Energy Independence Act.

Approved by voters in 2006, the Energy Independence Act (EIA), also known as Initiative 937 (I-937), requires electric utilities with 25,000 or more customers (qualifying utilities) to meet targets for using eligible renewable resources. The EIA also requires qualifying utilities to meet targets for energy conservation and to pursue all available energy conservation, which reduces power consumption by increasing the efficiency of energy use, production, or distribution.

The EIA requires that qualifying utilities meet the following targets for kilowatt-hours of electricity each year (load) from eligible renewable resources or renewable energy credits, or both:

- at least 3 percent of its load by 2012, and each year thereafter through 2015;
- at least 9 percent of its load by 2016, and each year thereafter through 2019; and
- at least 15 percent of its load by 2020, and each year thereafter.

Eligible renewable resources include electricity from: wind; solar energy; geothermal energy; landfill gas; wave, ocean, or tidal power; gas from sewage treatment facilities; biodiesel fuel with certain conditions; qualified biomass energy; and incremental electricity produced from efficiency improvements at hydroelectric generation projects with certain conditions. Renewable energy credits are tradable certificates of proof of one megawatt-hour of an eligible renewable resource.

Qualifying utilities are considered in compliance with the renewable energy targets for a given year if the utility invested at least four percent of its annual retail revenue on the incremental costs of eligible renewable resources, renewable energy credits, or both. The incremental cost of eligible renewable resources is essentially the difference between the cost of the renewable resource and an equivalent and reasonably available substitute resource.

Beginning in 2007, qualifying utilities that are not in compliance with the renewable energy and conservation targets set in the EIA must pay a penalty of \$50 for each megawatt-hour of shortfall. After 2007, this penalty is adjusted based on inflation.

Summary of Bill:

Temporary Prohibition on Energy Facility Site Recommendations and Action.

The Energy Facility Site Evaluation Council (EFSEC) is temporarily prohibited from submitting a report to the Governor with recommendations on approving or rejecting a proposed energy facility site location, and the Governor is temporarily prohibited from taking action on any pending EFSEC recommendations.

These temporary prohibitions exist until the following reports are published in the Washington State Register:

- a report on alternative energy siting inequity by the Department of Commerce; and
- a report of findings and recommendations of the newly established Joint Select Committee on alternative energy facility siting.

Report on Alternative Energy Siting Inequity.

By December 1, 2022, The Department of Commerce, in consultation with a utility technical advisory group must: (1) submit a report to the Joint Select Committee on alternative energy facility siting and to the appropriate policy and fiscal committees of the legislature; and (2) publish notification of report completion in the Washington State Register.

Report Contents.

The report must evaluate impacts of the Energy Independence Act (EIA). Examining the years between 2006 and 2020, the report must include:

- an assessment of the impact of the EIA on Washington's fuel mix, including: (1) an assessment of the percentage of Washington's electric fuel mix from renewable energy resources as of 2020; and (2) expenditures by each utility to comply with the EIA, broken out by specified categories;

- an assessment of the capital expenditures on renewable resources in each county, and how these capital expenditures are associated with impacts in each year on: (1) state and local tax revenue collections and the property tax base in each county in each year; and (2) sources of revenues dedicated to local school districts, including any state local effort assistance funding;
- an identification of the number and type of jobs created in each Washington county as a result of the EIA implementation, broken out by specified categories;
- a calculation of the cumulative incremental cost to each electric utility, and in aggregate for all electric utilities in Washington, above the least cost wholesale energy resource, of utility compliance with the targets established in the EIA; and
- a calculation of the incremental cost of renewable resources eligible under the EIA, relative to other nongreenhouse gas emitting energy resources, such as electricity derived from nuclear or hydroelectric facilities. This calculation must be measured based on the average wholesale market price of electricity from nongreenhouse gas emitting energy resources.

The report must also include a generalized description and map of the areas of Washington that electric utilities consider to have available resources for potentially economical utility-scale wind or solar energy facility development.

To complete the assessments required in the report, the Department of Commerce may require any entity that has generated or retired a renewable energy credit under the requirements of the EIA to submit information related to capital expenditures in Washington on renewable resources.

Utility Technical Advisory Group.

The Department of Commerce must form and consult with a utility technical advisory group for completing the report. The Department of Commerce must invite a representative from electric utilities with 25,000 or more customers as of 2020 to participate and may also solicit and consider feedback from utilities with less than 25,000 customers.

Joint Select Committee on Alternative Energy Facility Siting.

A Joint Select Committee on alternative energy facility siting (Committee) is established. The Committee consists of two members from each of the two largest caucuses of the Senate and an alternate from each caucus of each chamber, appointed by the President of the Senate, and two members from each of the two largest caucuses of the House of Representatives and an alternate, appointed by the Speaker of the House of Representatives. Alternates may vote on Committee business in place of an absent member during a Committee meeting. There are two co-chairs of the Committee, from different caucuses, chosen by the Committee from among its legislative leadership. The Committee must select other officers from among its members as the Committee deems appropriate. Recommendations of the Committee may be made with a simple majority of members, and if the Committee does not reach majority-supported recommendations, the Committee may report minority findings supported by at least two members of the Committee.

The Committee must hold at least four meetings before June 30, 2024, with at least two in Eastern Washington. One cochair must preside over the meetings in Western Washington and the other cochair must preside over the meetings in Eastern Washington. The first meeting of the Committee must occur by September 30, 2022.

The Committee must review:

- inequities in where large alternative energy projects have been sited, and are forecast to be sited, in Washington; and
- forms of economic development assistance, mitigation payments, and viewshed impairment payments that counties not hosting their per capita share of alternative energy resources should provide to counties that host more than their per capita share.

As part of this review, the Committee must review the Department of Commerce's 2022 report on alternative energy siting inequity. Relevant state entities, including the EFSEC, must cooperate with and provide information that is reasonably requested to the committee.

By December 1, 2023, the Committee must report its findings and any recommendations to the committees of the legislature with jurisdiction over environment and energy laws, and must publish a notice of the completion of these findings and recommendations in the Washington State Register.

The expenses of the operations of the Committee must be paid jointly by the Senate and the House of Representatives. Committee expenditures are subject to approval by the Senate Facility and Operations Committee and the House Executive Rules Committee. Legislative members of the Committee are reimbursed for travel expenses in accordance with state law for members' allowances when engaged in legislative business. Staff support for the Committee must be provided by the Senate Committee Services and the Office of Program Research.

Appropriation: None.

Fiscal Note: Requested on January 12, 2022.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.