

HB 2329 A STAFF MEASURE SUMMARY

Joint Committee On Ways and Means

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Meeting Dates: 6/10, 6/14

WHAT THE MEASURE DOES:

Changes the definition of energy facilities subject to Energy Facility Siting Council (EFSC) site certificate requirements. Exempts certain renewable energy facilities from EFSC review and establishes guidelines for counties to authorize siting. Authorizes a developer of a facility exempted from EFSC review to elect to obtain a site certificate through EFSC instead of siting through a county process. Allows smaller facilities not currently subject to EFSC review, net metering facilities, and community solar projects to be authorized by counties without additional guidelines established in this Act. Exempts solar photovoltaic power generation facilities from EFSC site certificate requirements unless they use: (1) more than 160 acres located on high-value farmland as defined in ORS 195.300; (2) 1,280 acres located on land that is predominantly cultivated or that, if not cultivated, is predominantly composed of soil classifications I to IV; or (3) 1,920 acres located on any other land. Exempts certain transmission lines and geothermal or wind energy facilities with an average electric generating capacity of less than 50 megawatts at a single facility or within a single energy generation area. Establishes guidelines for county siting of solar that require applicant to demonstrate that, in addition to meeting land use permitting: (1) the facility will comply with any EFSC standards and rules specific to renewable energy facilities; (2) the construction and operation of the facility will not result in significant adverse impacts to historic, cultural, and archaeological resources; (3) a habitat assessment and habitat mitigation plan have been conducted for the site; and (4) following the permanent closing of the facility, the site can be adequately restored to a usable, nonhazardous condition. Requires applicant to provide financial assurance or sureties in an amount and form acceptable to the county as a condition of approval. Requires applicant to consult with Oregon Department of Fish and Wildlife (ODFW) to assess potential habitat impacts and prescribes mitigation requirements for six habitat categories. Allows the use of mitigation banks or payment-to-provide mitigation in some circumstances. Requires mitigation measures be implemented and completed either prior to or concurrent with development of the facility. Requires that a county receiving an application to site a solar facility subject to the guidelines in this Act to notify state and federal agencies and tribes that may be affected by the application. Exempts certain county-sited solar photovoltaic power generation facilities from additional guidelines, including: (1) net metering facilities; (2) community solar projects; (3) a solar photovoltaic facility using 100 acres or less of high-value farmland, 100 acres or less of predominantly cultivated or that, if not cultivated, is predominantly composed of soil classifications I to IV, or 320 acres of any other land.

ISSUES DISCUSSED:

- the bill does allow solar farms on Class I, II, and III soils
- DLCD rules regarding the use of Class I, II, III soils are not preempted by the legislation
- threshold for county citing is moving from 100 acres to 160 acres of high value farm land
- small nuclear reactors are not applicable to this legislation
- rules used by counties will not have to be exactly the same as EFSC
- unknown what will happen to water rights on high value farm land

EFFECT OF AMENDMENT:

Changes the definition of energy facility and raises the jurisdictional threshold for certain renewable energy projects subject to the state's Energy Facility Siting Council. Excludes certain projects from EFSC jurisdiction. Adds a fish and wildlife standard for local jurisdiction renewable energy facilities (100 acres on high value and arable

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land and 320 acres on other land). Adds a cultural resources standard for local jurisdiction renewable energy facilities (100 acres on high value and arable land and 320 acres on other land). Adds a Retirement standard for local jurisdiction renewable energy facilities (100 acres on high value and arable land and 320 acres on other land). Requires that local jurisdiction renewable energy facilities above the current EFSC jurisdictional thresholds comply with standards and rules adopted by the EFSC under ORS 469.501 that a county considers to be applicable to the renewable energy facility. Adds the ability of developers to “opt-in” to state jurisdiction for solar PV projects and associated transmission lines which are not automatically state jurisdictional. Adds notification requirements to the State Historic Preservation Office (SHPO), affected federally recognized tribes, Oregon Department of Energy, Oregon Department of Fish and Wildlife, Oregon Department of Aviation, and the US Department of Defense.

BACKGROUND:

Before a large energy facility is built in Oregon, the developer must apply for a site certificate from the Energy Facility Siting Council (EFSC). The types of energy facilities currently requiring a site certificate include large electric power plants using thermal power; solar photovoltaic power generation facilities on more than 100 acres of high-value farmland or arable lands, or 320 acres on any other land; transmission lines over a certain voltage and length, or which cross multiple cities or counties; certain surface facilities associated with underground natural gas storage facilities; large liquid fuel pipelines and liquefied natural gas storage facilities; large intrastate natural gas pipelines; synthetic fuel plants that produce gas, liquid, or solid fuel capable of being burned to produce large quantities of heat; plants that convert biomass to gas, liquid, or solid fuel products if any one of such products reaches a daily Btu threshold; small generating plants within certain locations that produce accumulated effects similar to a single large generating plant; and radioactive waste disposal sites and nuclear installations. Other energy facilities, including certain renewable energy generation facilities, are reviewed and sited by counties.

House Bill 2329 would modify the definition of an energy facility subject to the EFSC site certificate requirements. The Act would exempt solar photovoltaic power generation facilities from requirements if they use: (1) 160 acres or less of high-value farmland; (2) less than 1,280 acres of arable lands; or (3) less than 1,920 acres of any other land. The Act would allow the developer of a project not subject to EFSC approval to elect to obtain a site certificate through EFSC. HB 2329 would establish criteria for siting certain renewable energy facilities outside the EFSC process, including habitat mitigation conditions.