

HB 3681 A STAFF MEASURE SUMMARY
House Committee On Climate, Energy, and Environment

Carrier: Rep. Gamba

Action Date: 04/08/25

Action: Do pass with amendments. (Printed A-Eng.)

Vote: 7-4-1-0

Yeas: 7 - Andersen, Gamba, Helm, Levy E, Lively, Marsh, Neron

Nays: 4 - Edwards, Levy B, Osborne, Owens

Exc: 1 - Wallan

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Erin Pischke, LPRO Analyst

Meeting Dates: 3/11, 4/8

WHAT THE MEASURE DOES:

The measure modifies the Energy Facility Siting Council contested case process for site certificate applications. The measure also changes the review criteria for a certificate of public convenience and necessity for overhead transmission lines.

Detailed summary:

ENERGY FACILITY SITING (EFSC) PROCESS

Section 2. Contested Case Proceedings:

- Specifies that EFSC must make every effort to conclude the contested case on a site certificate application and issue a final order within 12 months from the date of the proposed order.
- Specifies the earliest date that EFSC can require construction of a facility to begin is six years from the date EFSC issues the site certificate.
- Requires EFSC to include in all final orders approving or rejecting an application for a site certificate or amended site certificate any decisions related to or arising from a contested case on the application.
- Allows a limited party, in addition to a party, to a contested case proceeding to apply for rehearing within 30 days from the date the approval or rejection is served. Allows any party or limited parties to the entities that can appeal a final order issued by EFSC.
- Requires a petitioner, to appeal a final order, to establish individual or associational standing by demonstrating an injury to the petitioner or petitioner's members resulting from the final order.
- Establishes that decisions related to or arising from a contested case on an application for a site certificate or amended site certificate issued by EFSC are appealable directly to the Supreme Court.

Section 3. Judicial Review:

- Requires proceedings for review to be instituted by filing a petition in the Supreme Court within 60 days after the date of service of EFSC's final order approving or rejecting a site certificate or amended site certificate or within 30 days after the date the petition for rehearing is denied or deemed denied.
- Prohibits the filing of a petition for judicial review from staying the order approving or rejecting a site certificate or amended site certificate, with exceptions. Allows the type of amendment that can be considered in a contested case proceeding that EFSC may establish by rule.
- Confers judicial review solely on the Supreme Court of an EFSC approval or rejection of a request for an amendment to a site certificate or decision related to or arising from a contested case on an amendment, regardless of whether the contested case was held prior to EFSC's decision.
- Allows that if a contested case is not held, only the certificate holder or persons who submitted comments on the request for an amendment in compliance with EFSC rules may seek judicial review.
- Limits a certificate holder or person who seeks judicial review to the issues raised in their comments.

This summary has not been adopted or officially endorsed by action of the committee.

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- Allows a person who holds a site certificate, subject to applicable rules adopted by EFSC, to request to add an area to the approved site boundary without the council requiring an amendment to the site certificate.

CONDEMNATION: PUBLIC CONVENIENCE AND NECESSITY

- Narrows the criteria by which the Oregon Public Utility Commission (PUC) reviews a petition for a certificate of public convenience and necessity for overhead transmission lines.
- Directs PUC to review such petitions without requiring a petitioner to first obtain any required land use approvals.
- Allows the use of a site certificate for a high voltage transmission line as conclusive evidence of public use and necessity for any proceeding for condemnation of land or an interest therein.

ISSUES DISCUSSED:

- Interim electric transmission workgroup efforts
- Constraints on Oregon's electric grid and transmission system
- Boardman to Hemingway transmission line site certificate process
- Potential impacts of eminent domain on farmland
- Local county planning processes

EFFECT OF AMENDMENT:

The amendment modifies section 1 of the measure. It replaces sections 2 and 3 in the measure, modifying language relating to Energy Facility Siting Council appeals and amendments.

Detailed summary

SECTION 1

Specifies that Energy Facility Siting Council (EFSC) must make every effort to conclude the contested case and issue a final order within 12 months from the date of the proposed order. Specifies the earliest date that EFSC can require construction of a facility to begin is six years from the date EFSC issues the site certificate.

SECTION 2

Requires the Energy Facility Siting Council (EFSC) to include in all final orders approving or rejecting an application for a site certificate or amended site certificate any decisions related to or arising from a contested case on the application. Allows a limited party, in addition to a party, to a contested case proceeding to apply for rehearing within 30 days from the date the approval or rejection is served. Allows any party or limited parties to the entities that can appeal a final order issued by EFSC. Requires a petitioner, to appeal a final order, to establish individual or associational standing by demonstrating an injury to the petitioner or petitioner's members resulting from the final order. Establishes that decisions related to or arising from a contested case on an application for a site certificate or amended site certificate issued by EFSC are appealable directly to the Supreme Court. Requires proceedings for review to be instituted by filing a petition in the Supreme Court within 60 days after the date of service of EFSC's final order approving or rejecting a site certificate or amended site certificate or within 30 days after the date the petition for rehearing is denied or deemed denied. Prohibits the filing of a petition for judicial review from staying the order approving or rejecting a site certificate or amended site certificate, with exceptions.

SECTION 3

Allows, rather than requires, the type of amendment that can be considered in a contested case proceeding that EFSC may establish by rule. Confers judicial review solely on the Supreme Court of an EFSC approval or rejection of a request for an amendment to a site certificate or decision related to or arising from a contested case on an amendment, regardless of whether the contested case was held prior to the EFSC's decision. Allows, if a contested case is not held, only the certificate holder or persons who submitted comments on the request for an amendment in compliance with EFSC rules may seek judicial review. Limits a certificate holder or person who seeks judicial review to the issues the certificate holder or the person raised in their comments. Allows a person

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who holds a site certificate, subject to applicable rules adopted by EFSC, to request to add an area to the approved site boundary without the council requiring an amendment to the site certificate.

BACKGROUND:

Large energy facility developers in Oregon must apply for a site certificate from the Energy Facility Siting Council before they can begin construction. The certificate or amended certificate authorizes the applicant to construct, operate, and retire the facility subject to the conditions set forth in the site certificate or amended site certificate. Site certificates or amended site certificates last for the duration of the life of the facility. Currently, a separate site certificate is not required for transmission lines, storage facilities, pipelines, or similar related or supporting facilities if such related or supporting facilities are addressed in and are subject to a site certificate for another energy facility (ORS 469.320).

A workgroup met during Oregon's 2023–2024 legislative interim to discuss electric transmission issues and draft potential bill language on related topics.