

Testimony of Leah J. Donaldson, Esq.
In Support of H-5278
House Committee on Environment and Natural Resources
Thursday, March 4, 2021

This bill amends the legislation that created the Energy Facility Siting Board (“EFSB”) in 1986. The EFSB has authority to grant or deny permits to build major energy facilities, including non-generating facilities (such as transmission lines and substations) and generating facilities (such as power plants). The EFSB permitting process affects every city and town in Rhode Island.

The EFSB enabling legislation is outdated and inadequate. I participated in the stakeholder group that met from August 2019 through February 2020 to collaborate on ways to improve the siting process. This bill addresses many concerns that were discussed in the stakeholder meetings.

H-5278 would update the EFSB enabling legislation in the following ways:

Board Membership:

- Expand EFSB from 3 members to 5 members.
- Retain existing EFSB members: chair of public utilities commission, director of department of environmental management, and associate director of administration for planning.
- Add 2 new EFSB members: secretary of commerce and attorney general.
- Permit non-public EFSB members to select a designee from their respective agency to serve on the board in their place.

Application Process:

- Clarification of materials required for a complete application.
- Preliminary review of application to ensure application contains all required materials.
- For major generating projects: Require pre-application meetings with advisory agencies, and advisory agencies review application materials prior to docketing.

Hearing Process:

- Require cumulative impacts of related applications to be considered.
- Expand notification requirements for nearby property owners.
- Require the attorney general to appoint a public advocate to protect the public interest in matters before the EFSB.
- For major non-generating projects: A hearing officer may be appointed by the EFSB to conduct hearings and submit findings and recommendations to the EFSB.
- For major generating projects: At least 3 public hearings shall be held; expenses reasonably incurred by a host community shall be reimbursed by applicant.

Definitions:

- Divide the definition of major energy facilities into “major generating facilities” such as power plants, and “major non-generating facilities” such as transmission lines.
- Define “advisory agencies” as entities which would, if the EFSB did not exist, have statutory authority to grant or deny permits for a proposed energy project, which function at the direction of the EFSB and render advisory opinions to the EFSB.
- Define “host community” as a city or town where all or most of an energy facility is located.
- Remove outdated definitions.