

Senate Bill 258

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber, M.D., for State Department of Energy)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Removes provision that amended site certificate must require both parties to abide by local ordinances and state law and rules of Energy Facility Siting Council in effect on date amended site certificate is executed.

Clarifies that requirement for parties to site certificate to abide by local ordinances in effect on date site certificate is executed does not include land use regulations.

A BILL FOR AN ACT

1
2 Relating to energy facility site certificates; amending ORS 469.401.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 469.401 is amended to read:

5 469.401. (1) Upon approval, the site certificate or any amended site certificate with any condi-
6 tions prescribed by the Energy Facility Siting Council shall be executed by the chairperson of the
7 council and by the applicant. The certificate or amended certificate shall authorize the applicant to
8 construct, operate and retire the facility subject to the conditions set forth in the site certificate
9 or amended site certificate. The duration of the site certificate or amended site certificate shall be
10 the life of the facility.

11 (2)(a) The site certificate or amended site certificate shall contain conditions for the protection
12 of the public health and safety, for the time for completion of construction, and to ensure compliance
13 with the standards, statutes and rules described in ORS 469.501 and 469.503.

14 (b) **Except as provided in ORS 469.504 for land use compliance**, the site certificate [*or*
15 *amended site certificate*] shall require both parties to abide by local ordinances and state law and the
16 rules of the council in effect on the date the site certificate [*or amended site certificate*] is
17 executed[, *except that upon*]. **The council may require compliance with local ordinances or state**
18 **law or rules of the council adopted after issuance of the site certificate if there is** a clear
19 showing of a significant threat to the public health, safety or the environment that requires appli-
20 cation of **the later-adopted ordinances**, laws or rules[, *the council may require compliance with such*
21 *later-adopted laws or rules*].

22 (c) For a permit addressed in the site certificate or amended site certificate, the site certificate
23 or amended site certificate shall provide for facility compliance with applicable state and federal
24 laws adopted in the future to the extent that such compliance is required under the respective state
25 agency statutes and rules.

26 (3) Subject to the conditions set forth in the site certificate or amended site certificate, any
27 certificate or amended certificate signed by the chairperson of the council shall bind the state and
28 all counties and cities and political subdivisions in this state as to the approval of the site and the

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 construction and operation of the facility. After issuance of the site certificate or amended site
2 certificate, any affected state agency, county, city and political subdivision shall, upon submission
3 by the applicant of the proper applications and payment of the proper fees, but without hearings or
4 other proceedings, promptly issue the permits, licenses and certificates addressed in the site certifi-
5 cate or amended site certificate, subject only to conditions set forth in the site certificate or
6 amended site certificate. After the site certificate or amended site certificate is issued, the only is-
7 sue to be decided in an administrative or judicial review of a state agency or local government
8 permit for which compliance with governing law was considered and determined in the site certifi-
9 cate or amended site certificate proceeding shall be whether the permit is consistent with the terms
10 of the site certificate or amended site certificate. Each state or local government agency that issues
11 a permit, license or certificate shall continue to exercise enforcement authority over the permit, li-
12 cense or certificate.

13 (4) Nothing in ORS chapter 469 shall be construed to preempt the jurisdiction of any state
14 agency or local government over matters that are not included in and governed by the site certifi-
15 cate or amended site certificate. Such matters include but are not limited to employee health and
16 safety, building code compliance, wage and hour or other labor regulations, local government fees
17 and charges or other design or operational issues that do not relate to siting the facility.

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