



February 12, 2024

Chair Helm, Vice Chair Owens and Hartman, members of the committee.

I appreciate the opportunity to address the committee this afternoon on House Bill 4090 and the proposed -4 amendments.

House Bill 4090 would remove EFSC jurisdiction from certain energy projects if they are built exclusively on federal lands and subject to the federal National Environmental Policy Act (NEPA) review process.

First let me begin by stating AOC is officially Neutral to this bill. During the most recent AOC Natural Resources steering committee meeting, counties did raise a series of concerns that we believe can be addressed with the adoption of the -4 amendments before you.

ORS 469.360 and 469.370 states The Energy Facility Siting Council must, while reviewing the application, also review the comments on the application by the local governments. It also states in ORS 469.480 that EFSC must designate a special advisory group comprised of local governments to address local concerns. The issue counties found themselves in with this bill, was the inability to address these potential local concerns. NEPA has something called '*cooperating agency status*', however there is no guarantee counties would be granted this ability every time. The Federal Government gets to decide who a '*cooperating agency*' is and how involved they get to be. Thus, counties wanted to ensure our local concerns could still be addressed. In reaching out to the bill proponents and raising our concerns, an agreement was reached around language to craft the -3 amendment.

One primary issue raised during the AOC Natural Resources Steering Committee was the use of roads and access points. Many federal land access points come from County Roads. The EFSC process would allow counties to enter into road user agreements with the developer to cover the wear and tear on our roadways, it is currently unclear whether NEPA guarantees this same opportunity. Thus, we requested the amendment address road usage. Second, counties wanted to have the information around fire plans and fire response on file. It is important to know what development is on the landscape, so resources can be allocated when needed. Third, counties are responsible for the elimination of noxious weeds within their borders. Counties wanted to ensure the construction equipment do not contain invasive vegetation.

However, it is possible that counties might have additional concerns over time. To ensure the statute allowed for this flexibility, language was included to allow for conversations to be had regarding any other potential issue as well. As conversations continued with other stakeholders, the -3 amendment was altered to the -4 to include a requirement to review federal agriculture and grazing rights.

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The Association of Oregon Counties appreciates the opportunity to address the concerns with the proponents and their willingness to allow for this amendment language.

AOC is in support of the -4 amendment and if adopted Neutral to the bill.

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