

AOC ASSOCIATION OF OREGON COUNTIES

Date:	March 31, 2025
To:	Senator Janeen Sollman, Chair Senator David Brock Smith, Vice Chair Members of the Senate ;
From:	Association of Oregon Counties Legislative Affairs Manager Branden Pursinger
Subject:	Senate Bill 1034 – EFSC Process With Local Land Use Regulations

The Association of Oregon Counties (AOC) is a non-partisan member organization that advocates on issues that unite all county governing bodies and have an impact on county functions, governance, budgets, and services.

AOC is in support of SB 1034, a bill that would require EFSC to review a proposed site certificate and ensure it follows the local government's land use plan and regulations.

Local Governments are required to adopt local comprehensive plans to be consistent with the state's 19 Land Use Goals. Land Use Goal #2 "Land Use Planning" requires local governments to follow the state's written plans, or create a comprehensive plan that is compatible. Once the local government creates the plans and the governing body approves them, they are sent to the Land Conservation and Development Commission for approval. Once completed, the plans are deemed "acknowledged" by the state as being consistent with the goals. These comprehensive plans are the controlling documents governing all land use decisions in the city / county – developers, county ordinances, state agencies, every entity must comply with these local comprehensive plans... except the Energy Facility Siting Council.

When an energy project is proposed, developers have two options for permitting. They can go through the local planning department (assuming the size limitations found in ORS 215.446 are not exceeded), or they can go through the state's Energy Facility Siting Council (EFSC). The council oversees the development of large energy facilities in Oregon – this includes electric power generating plants, high-voltage transmission lines, gas pipelines and disposal sites for radioactive waste to name just a few. The full list of powers and duties for EFSC can be found in ORS 469.470. If the project is deemed a large energy project, the permitting authority falls to EFSC automatically.

Counties have been able to work with EFSC to ensure that local comprehensive plans, zoning ordinances and land use regulations are met and followed through what is called a Special Advisory Group (ORS 469.480). The Special Advisory Group works with EFSC to ensure the local values and priorities of the community are aligned with the project EFSC is advancing. Unfortunately, this partnership fell apart in 2017.

In 2017, a developer approached the Energy Facility Siting Council for a site certificate in unincorporated Umatilla County to construct 600 megawatts of renewable energy on 48,196 acres of private land zoned EFU. This project included: 340 megawatts of wind, 260 megawatts of solar, 230 kilovolts of transmission lines, two substations, an operation and maintenance

building, a battery energy storage system, electrical collection system, access roads, and up to three meteorological towers.

When the project was proposed, EFSC created the Special Advisory Group, pursuant to ORS 469.480. Umatilla County provided the Council with the local criteria needed to be in compliance with the LCDC approved and state-acknowledged Comprehensive Plan. One of the local criteria was a requirement that had been adopted in 2011 to safeguard the interests of local landowners, farmers and ranchers. Counties have a responsibility to keep and protect Farm Land (*Land Use Goal 3 – OAR 660-015-0000(3)*).

EFSC reviewed the material submitted and issued a final decision to approve the project – nullifying the required local ordinance the county had in place. This ordinance had been used and followed for other EFSC approved projects. EFSC's decision was based on there not being a statewide planning goal requiring this specific ordinance, even though the Comprehensive plan used was deemed compatible with the 19 land use goals. This decision undermined the County Authority and their ability to protect the interests of the community – something the Special Advisory Group was tasked with upholding.

Senate Bill 1034 does not place counties in a seat where they can outright veto a project because they don't like it, it simply ensures the local ordinances that have been approved by the governing body, and approved by the state's Land Use Agency, are followed when a site certificate is requested.

Senate Bill 1034 is a bill that would ensure local control in land use and uphold the land use planning system Oregon prides itself on.

If EFSC has the ability to disregard locally adopted standards, why would counties continue to advocate for involvement in the Special Advisory Group? Why would a county take the time to provide local criteria for EFSC consideration if they are going to override those local decisions?

Senate Bill 1034 is an important bill that would reaffirm the local ordinances they believe to be important. It would reaffirm the comprehensive plans that were approved by the state's land use agency as being sufficient.

AOC urges the committee to support and vote “YES” on Senate Bill 1034.