

LFC Requester:	Austin Davidson
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/18/25 *Check all that apply:*
Bill Number: HB 435 Original Correction
 Amendment Substitute

Sponsor:	<u>Rep. McQueen</u> <u>Sen. Stefanics</u>	Agency Name and Code	<u>430 – Public Regulation Commission</u>
Short Title:	<u>Renewable Energy Facility Siting Rules</u>	Number:	<u></u>
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0.00	\$445.211	\$471.924	\$917.135	Recurring	GF

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 435 would add a new section to Article 62 NMSA to require the Commission to promulgate and implement rules to govern the permitting and siting of renewable energy facilities over 5 megawatts that have not received final approval on the date the rules take effect. The Bill also has specific criteria that must be included in the new rule.

FISCAL IMPLICATIONS

HB 435 would have a significant financial impact on the PRC for the following additional resources: 1 Hearing Examiner position (\$180,817), ¼ of Office of General Counsel attorney (\$36,431), ½ Legal attorney (\$76,353), 1 Utilities Analyst \$120,480, ⅛ of a Utilities division Engineer (\$16,070), ⅛ of an Economist (\$15,060). For a total annual cost to the PRC of **\$445,211** in FY26 and **\$471,924** in FY27.

SIGNIFICANT ISSUES

This bill could result in an enormous volume of new cases coming to the PRC given the low 5 MW threshold and whether the requirement applies to utility developed projects or projects developed by a private person or developer. It is unclear whether “intrastate transmission facilities” applies to transmission lines, a transmission level substation, or other transmission related hardware.

The 5 MW threshold would impact the Commission in the following ways:

- For generation, the Commission currently has location control authority over projects that equal or exceed 300 MW. This would lower the threshold for Commission review to 5 MW (a factor of 60). It is not currently known how many additional cases this would generate.
- For storage, the Commission does not currently exercise location control authority over storage projects.
- For transmission, the Commission currently has location control authority over lines over 230 Kv or more. The intended threshold for transmission projects is unclear, as MW is not the unit of measurement for transmission projects.

In Section 1(B), it is unclear if the intent is to replace, supplement, or modify existing statutory authority regarding location control, such as section 62-9-3 NMSA 1978. As written, there would be significant overlap with section 62-9-3 NMSA 1978.

In addition, the categories in Section 1(B), combined with the 5 MW threshold in Section 1(A), could create a significant regulatory burden on parties seeking to develop small renewable energy and transmission projects.

Lastly, Section 1(B)’s criteria raises the following concerns:

- In (B)(2), the Bill requires the new rule to evaluate “local impact” but is silent on how the Commission considers these impacts when weighed against the “public interest” of the entire statutory scheme.
- In (B)(3), the Bill requires the Commission to address scenic, cultural, archaeological and environmental impacts. However, the Commission is primarily an economic regulator assessing these issues infrequently and does not currently have staff experts on these topics.
- The Commission does not currently issue or deny “permits” and doing so may change the adjudicatory scheme of the agency. Currently, when location control applications are filed under existing Commission authority, they are either approved, as opposed to issued, or denied.

In Section 2, the Bill would apply to projects that are in process but have not yet received final approval. Changing the applicable standards for adjudicatory cases that are currently in process may present due process concerns.

PERFORMANCE IMPLICATIONS

The bill contemplates requiring the Commission to evaluate technical areas for which it currently has no staff expertise.

ADMINISTRATIVE IMPLICATIONS

The Bill would require the Commission to add a new rulemaking to its already heavy docket of rulemakings, as well as the possibility of substantial increases in the number of applications to be assessed and approved or denied, with a concomitant increase in hearings and other administrative processes.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

n/a

TECHNICAL ISSUES

n/a

OTHER SUBSTANTIVE ISSUES

n/a

ALTERNATIVES

n/a

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo – renewable energy facilities will continue to be permitted by local political subdivisions of the state.

AMENDMENTS

n/a