
SUBSTITUTE SENATE BILL 6411

State of Washington

56th Legislature

2000 Regular Session

By Senate Committee on Energy, Technology & Telecommunications
(originally sponsored by Senators Spanel, Gardner, Brown, Fairley,
Franklin, B. Sheldon, Shin, Kline, Patterson, Haugen, Kohl-Welles,
Costa, Thibaudeau, Prentice, Fraser and Goings)

Read first time 02/04/2000.

1 AN ACT Relating to studying the energy facility siting process;
2 amending RCW 80.50.060; creating a new section; providing an expiration
3 date; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The joint legislative task force on
6 energy facility siting reform is hereby created. Membership of the
7 task force must consist of eight legislators who will serve as voting
8 members, and eight nonvoting members. Four legislative members from
9 the senate, including two members from the majority party and two
10 members from the minority party, will be appointed by the president of
11 the senate. Four legislative members from the house of
12 representatives, including two members from each party, will be
13 appointed by the co-speakers of the house of representatives. Each
14 body shall select representatives to the task force from the committees
15 with jurisdiction over energy, environmental or ecology, and growth
16 management or siting issues. The eight nonvoting members will be
17 selected by the director of the department of community, trade, and
18 economic development to represent the following stakeholder groups:
19 (a) The executive branch; (b) cities; (c) counties; (d) pipeline

1 operators; (e) electric utilities; (f) energy facility developers; (g)
2 environmental organizations; and (h) citizens at large. The task force
3 may invite the participation of others and form working groups as
4 needed. The chair of the task force will be selected by the voting
5 members of the task force. The department of community, trade, and
6 economic development shall, with the assistance of legislative staff,
7 provide administrative and professional support for the task force.
8 The department shall manage the study project and hire an independent
9 facilitator to assist the task force to reach resolution on the issues
10 identified in subsection (3) of this section.

11 (2) The joint legislative task force on energy facility siting
12 reform is charged with reviewing the current siting process for energy
13 facilities set forth in chapter 80.50 RCW for the purpose of
14 recommending statutory changes designed to modernize the siting process
15 to better respond to the significant regulatory, environmental,
16 technological, and economic changes affecting energy facility siting
17 decisions.

18 (3) In conducting its review, the task force shall consider and
19 address at least the following issues:

20 (a) The types and sizes of energy facilities to be regulated by a
21 state siting authority, and recommendations of which types and sizes,
22 if any, should be sited and regulated by the state;

23 (b) The membership of a state siting authority and whether changes
24 to the membership or other elements of the process would facilitate
25 more effective coordination between the relevant state and local
26 agencies and more efficient communication and utilization of expertise
27 within the agencies;

28 (c) The processes involved in reviewing and taking action on
29 facility applications, including recommendations to: (i) Ensure broad
30 and meaningful public participation; (ii) improve the coordination and
31 reconciliation of the siting process with the review processes required
32 under the state environmental policy act and the growth management act;
33 (iii) clarify the governor's role in reviewing siting decisions; and
34 (iv) improve procedures and standards for amending site certification
35 agreements to address changes in the energy facility or use of all or
36 a portion of the site for nonenergy-related uses;

37 (d) The scope of preemption exercised by a state siting authority,
38 including whether and to what extent it should have the authority to

1 preempt the proprietary and regulatory functions of local governments
2 and other state agencies;

3 (e) The involvement of local jurisdictions in the state siting
4 authority's proceedings, including recommendations to enhance
5 consistency between the state siting process and local land use
6 regulations and growth management siting processes;

7 (f) The balancing responsibility a state siting authority should
8 perform with respect to determining the need for proposed facilities
9 and balancing the demand against the public interest in protecting the
10 environment, and whether clarification is needed to ensure consistency
11 with the state energy policy directives enacted subsequent to the
12 siting requirements;

13 (g) Whether special provisions are needed, such as a counsel for
14 the environment, to ensure adequate protection of the environment, and
15 whether that protection should be expanded to include responsibilities
16 for representing the public interest in protecting public health and
17 safety;

18 (h) The adequacy of current funding mechanisms to support the
19 participation of local jurisdictions, intervenors, and other interested
20 persons in state siting proceedings, and recommendations for reducing
21 the costs of participation or increasing the support for such
22 participation;

23 (i) The monitoring and oversight of permitted sites, and
24 recommendations whether the energy facility site evaluation council
25 should retain sole responsibility for such activities or whether
26 another agency or agencies would more efficiently monitor and oversee
27 permitted sites; and

28 (j) The location of facilities on public lands, including
29 recommendations identifying: (i) The appropriate public entity or
30 entities to interpret the applicable laws governing use of public
31 lands; and (ii) changes to eminent domain requirements that would allow
32 for more efficient siting of projects that are found to be in the
33 public interest and are certified for location on public land.

34 (4) The task force shall convene its first meeting by April 10,
35 2000, and complete its review and submit its recommendations in the
36 form of a report to the legislature by December 1, 2000.

37 (5) This section expires June 30, 2001.

1 **Sec. 2.** RCW 80.50.060 and 1977 ex.s. c 371 s 5 are each amended to
2 read as follows:

3 (1) The provisions of this chapter shall apply to the construction
4 of energy facilities which includes the new construction of energy
5 facilities and the reconstruction or enlargement of existing energy
6 facilities where the net increase in physical capacity or dimensions
7 resulting from such reconstruction or enlargement meets or exceeds
8 those capacities or dimensions set forth in RCW 80.50.020 (7) and
9 (~~((17), as now or hereafter amended))~~ (14). No construction of such
10 energy facilities may be undertaken, except as otherwise provided in
11 this chapter, after July 15, 1977, without first obtaining
12 certification in the manner provided in this chapter.

13 (2) The provisions of this chapter shall not apply to normal
14 maintenance and repairs which do not increase the capacity or
15 dimensions beyond those set forth in RCW 80.50.020 (7) and (~~((17), as
16 now or hereafter amended))~~ (14).

17 (3) Applications for certification of ((energy)) transmission
18 facilities made ((prior to July 15, 1977 shall continue to be governed
19 by the applicable provisions of law in effect on the day immediately
20 preceding July 15, 1977 with the exceptions of RCW 80.50.190 and
21 80.50.071 which shall apply to such prior applications and to site
22 certifications prospectively from July 15, 1977)) after January 1,
23 2000, and prior to August 1, 2001, shall vest to any standards or
24 requirements in effect on August 1, 2001, or upon the issuance of a
25 certificate by the council, whichever comes first.

26 (4) Applications for certification shall be upon forms prescribed
27 by the council and shall be supported by such information and technical
28 studies as the council may require.

29 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of the
31 state government and its existing public institutions, and takes effect
32 immediately.

--- END ---