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**SUBSTITUTE HOUSE BILL 2402**

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**State of Washington**

**59th Legislature**

**2006 Regular Session**

**By** House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Hudgins and B. Sullivan)

READ FIRST TIME 01/17/06.

1       AN ACT Relating to expedited processing of energy facilities and  
2 alternative energy resources under the energy facility site evaluation  
3 council; and amending RCW 80.50.020, 80.50.075, and 80.50.090.

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

5       **Sec. 1.** RCW 80.50.020 and 2001 c 214 s 3 are each amended to read  
6 as follows:

7       The definitions in this section apply throughout this chapter  
8 unless the context clearly requires otherwise.

9       (1) "Applicant" means any person who makes application for a site  
10 certification pursuant to the provisions of this chapter.

11       (2) "Application" means any request for approval of a particular  
12 site or sites filed in accordance with the procedures established  
13 pursuant to this chapter, unless the context otherwise requires.

14       (3) "Person" means an individual, partnership, joint venture,  
15 private or public corporation, association, firm, public service  
16 company, political subdivision, municipal corporation, government  
17 agency, public utility district, or any other entity, public or  
18 private, however organized.

1 (4) "Site" means any proposed or approved location of an energy  
2 facility.

3 (5) "Certification" means a binding agreement between an applicant  
4 and the state which shall embody compliance to the siting guidelines,  
5 in effect as of the date of certification, which have been adopted  
6 pursuant to RCW 80.50.040 as now or hereafter amended as conditions to  
7 be met prior to or concurrent with the construction or operation of any  
8 energy facility.

9 (6) "Associated facilities" means storage, transmission, handling,  
10 or other related and supporting facilities connecting an energy plant  
11 with the existing energy supply, processing, or distribution system,  
12 including, but not limited to, communications, controls, mobilizing or  
13 maintenance equipment, instrumentation, and other types of ancillary  
14 transmission equipment, off-line storage or venting required for  
15 efficient operation or safety of the transmission system and overhead,  
16 and surface or subsurface lines of physical access for the inspection,  
17 maintenance, and safe operations of the transmission facility and new  
18 transmission lines constructed to operate at nominal voltages in excess  
19 of 200,000 volts to connect a thermal power plant to the northwest  
20 power grid: PROVIDED, That common carrier railroads or motor vehicles  
21 shall not be included.

22 (7) "Transmission facility" means any of the following together  
23 with their associated facilities:

24 (a) Crude or refined petroleum or liquid petroleum product  
25 transmission pipeline of the following dimensions: A pipeline larger  
26 than six inches minimum inside diameter between valves for the  
27 transmission of these products with a total length of at least fifteen  
28 miles;

29 (b) Natural gas, synthetic fuel gas, or liquified petroleum gas  
30 transmission pipeline of the following dimensions: A pipeline larger  
31 than fourteen inches minimum inside diameter between valves, for the  
32 transmission of these products, with a total length of at least fifteen  
33 miles for the purpose of delivering gas to a distribution facility,  
34 except an interstate natural gas pipeline regulated by the United  
35 States federal power commission.

36 (8) "Independent consultants" means those persons who have no  
37 financial interest in the applicant's proposals and who are retained by

1 the council to evaluate the applicant's proposals, supporting studies,  
2 or to conduct additional studies.

3 (9) "Thermal power plant" means, for the purpose of certification,  
4 any electrical generating facility using any fuel, including nuclear  
5 materials, for distribution of electricity by electric utilities.

6 (10) "Energy facility" means an energy plant or transmission  
7 facilities: PROVIDED, That the following are excluded from the  
8 provisions of this chapter:

9 (a) Facilities for the extraction, conversion, transmission or  
10 storage of water, other than water specifically consumed or discharged  
11 by energy production or conversion for energy purposes; and

12 (b) Facilities operated by and for the armed services for military  
13 purposes or by other federal authority for the national defense.

14 (11) "Council" means the energy facility site evaluation council  
15 created by RCW 80.50.030.

16 (12) "Counsel for the environment" means an assistant attorney  
17 general or a special assistant attorney general who shall represent the  
18 public in accordance with RCW 80.50.080.

19 (13) "Construction" means on-site improvements, excluding  
20 exploratory work, which cost in excess of two hundred fifty thousand  
21 dollars.

22 (14) "Energy plant" means the following facilities together with  
23 their associated facilities:

24 (a) Any stationary thermal power plant with generating capacity of  
25 three hundred fifty thousand kilowatts or more, measured using maximum  
26 continuous electric generating capacity, less minimum auxiliary load,  
27 at average ambient temperature and pressure, and floating thermal power  
28 plants of one hundred thousand kilowatts or more, including associated  
29 facilities. For the purposes of this subsection, "floating thermal  
30 power plants" means a thermal power plant that is suspended on the  
31 surface of water by means of a barge, vessel, or other floating  
32 platform;

33 (b) Facilities which will have the capacity to receive liquified  
34 natural gas in the equivalent of more than one hundred million standard  
35 cubic feet of natural gas per day, which has been transported over  
36 marine waters;

37 (c) Facilities which will have the capacity to receive more than an  
38 average of fifty thousand barrels per day of crude or refined petroleum

1 or liquified petroleum gas which has been or will be transported over  
2 marine waters, except that the provisions of this chapter shall not  
3 apply to storage facilities unless occasioned by such new facility  
4 construction;

5 (d) Any underground reservoir for receipt and storage of natural  
6 gas as defined in RCW 80.40.010 capable of delivering an average of  
7 more than one hundred million standard cubic feet of natural gas per  
8 day; and

9 (e) Facilities capable of processing more than twenty-five thousand  
10 barrels per day of petroleum into refined products.

11 (15) "Land use plan" means a comprehensive plan or land use element  
12 thereof adopted by a unit of local government pursuant to chapter((§))  
13 35.63, 35A.63, ((§)) 36.70, or 36.70A RCW.

14 (16) "Zoning ordinance" means an ordinance of a unit of local  
15 government regulating the use of land and adopted pursuant to  
16 chapter((§)) 35.63, 35A.63, ((§)) 36.70, or 36.70A RCW or Article XI  
17 of the state Constitution.

18 (17) "Alternative energy resource" means: (a) Wind; (b) solar  
19 energy; (c) geothermal energy; (d) landfill gas; (e) wave or tidal  
20 action; or (f) biomass energy based on solid organic fuels from wood,  
21 forest, or field residues, or dedicated energy crops that do not  
22 include wood pieces that have been treated with chemical preservatives  
23 such as creosote, pentachlorophenol, or copper-chrome-arsenic.

24 **Sec. 2.** RCW 80.50.075 and 1989 c 175 s 172 are each amended to  
25 read as follows:

26 (1) Any person ((~~required to file~~)) filing an application for  
27 certification of an energy facility or an alternative energy resource  
28 facility pursuant to this chapter may apply to the council for an  
29 expedited processing of such an application. The application for  
30 expedited processing shall be submitted to the council in such form and  
31 manner and accompanied by such information as may be prescribed by  
32 council rule. The council may grant an applicant expedited processing  
33 of an application for certification upon finding that((+)

34 (a)) the environmental impact of the proposed energy facility((+)

35 (b) ~~The area potentially affected;~~

36 (c) ~~The cost and magnitude of the proposed energy facility; and~~

1       ~~(d) The degree to which the proposed energy facility represents a~~  
2 ~~change in use of the proposed site~~  
3 ~~are)) is not significant ((enough to warrant a full review of the~~  
4 ~~application for certification under the provisions of this chapter)) or~~  
5 ~~will be mitigated to a nonsignificant level under RCW 43.21C.031 and~~  
6 ~~the project is found under RCW 80.50.090(2) to be consistent and in~~  
7 ~~compliance with municipal, county, or regional land use plans or zoning~~  
8 ~~ordinances.~~

9       (2) Upon granting an applicant expedited processing of an  
10 application for certification, the council shall not be required to:

11       (a) Commission an independent study to further measure the  
12 consequences of the proposed energy facility or alternative energy  
13 resource facility on the environment, notwithstanding the other  
14 provisions of RCW 80.50.071; nor

15       (b) Hold an adjudicative proceeding under chapter 34.05 RCW, the  
16 administrative procedure act, on the application.

17       (3) The council shall adopt rules governing the expedited  
18 processing of an application for certification pursuant to this  
19 section.

20       **Sec. 3.** RCW 80.50.090 and 2001 c 214 s 7 are each amended to read  
21 as follows:

22       (1) The council shall conduct an informational public hearing in  
23 the county of the proposed site as soon as practicable but not later  
24 than sixty days after receipt of an application for site certification:  
25 PROVIDED, That the place of such public hearing shall be as close as  
26 practical to the proposed site.

27       (2) Subsequent to the informational public hearing, the council  
28 shall conduct a public hearing to determine whether or not the proposed  
29 site is consistent and in compliance with municipal, county, or  
30 regional land use plans or zoning ordinances. If it is determined that  
31 the proposed site does conform with existing land use plans or zoning  
32 ordinances in effect as of the date of the application, the municipal,  
33 county, or regional planning authority shall not thereafter change such  
34 land use plans or zoning ordinances so as to affect the proposed site.

35       (3) Prior to the issuance of a council recommendation to the  
36 governor under RCW 80.50.100 a public hearing, conducted as an  
37 adjudicative proceeding under chapter 34.05 RCW, the administrative

1 procedure act, shall be held. At such public hearing any person shall  
2 be entitled to be heard in support of or in opposition to the  
3 application for certification.

4 (4) Additional public hearings shall be held as deemed appropriate  
5 by the council in the exercise of its functions under this chapter.

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