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SENATE BILL 5228

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State of Washington

62nd Legislature

2011 Regular Session

By Senators Rockefeller, Honeyford, Delvin, Kline, and Chase

Read first time 01/18/11. Referred to Committee on Environment, Water & Energy.

1 AN ACT Relating to small facility siting; amending RCW 80.50.040,  
2 80.50.060, 80.50.071, and 80.50.100; reenacting and amending RCW  
3 80.50.020 and 80.50.090; adding new sections to chapter 80.50 RCW;  
4 creating a new section; providing an effective date; and declaring an  
5 emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that small alternative  
8 energy resource facilities provide various benefits to local  
9 communities such as: Reducing emissions of air, soil, and water  
10 pollutants; creating local jobs; securing a diversified energy supply;  
11 and contributing to the development of a clean, sustainable energy  
12 industry. The legislature finds that the implementation of state  
13 policies that support the development of small alternative energy  
14 resource facilities may be hindered by the lack of appropriate local  
15 ordinances to permit the siting of these facilities.

16 The legislature finds that the energy facility site evaluation  
17 council maintains the necessary expertise to evaluate proposed energy  
18 projects, balancing the demand for new energy facilities with  
19 protection of environmental quality and safety of energy facilities.

1 The legislature intends to ensure that small alternative energy  
2 resource facilities are sited in a timely manner in local jurisdictions  
3 where there are no existing ordinances to permit these facilities,  
4 where applicable ordinances have not been updated in over ten years, or  
5 where ordinances have been adopted that impede the timely permitting of  
6 these facilities.

7 Additionally, it is the intent of the legislature to encourage  
8 local governments to enter into interlocal agreements with the energy  
9 facility site evaluation council for the purpose of authorizing the  
10 council to issue permits for small alternative energy resource  
11 facilities that are proposed within the geographic jurisdiction of a  
12 local government, if the local government determines that it would be  
13 more cost-effective for the council to permit these facilities.

14 The legislature finds that it may be more cost-effective in some  
15 cases for the state to provide a centralized small renewable energy  
16 resource facility permitting agency than for each county and  
17 municipality to maintain individual permitting staff.

18 **Sec. 2.** RCW 80.50.020 and 2010 c 152 s 1 are each reenacted and  
19 amended to read as follows:

20 The definitions in this section apply throughout this chapter  
21 unless the context clearly requires otherwise.

22 (1) "Alternative energy resource" includes energy facilities of the  
23 following types: (a) Wind; (b) solar energy; (c) geothermal energy;  
24 (d) landfill gas; (e) wave or tidal action; or (f) biomass energy based  
25 on solid organic fuels from wood, forest, or field residues, or  
26 dedicated energy crops that do not include wood pieces that have been  
27 treated with chemical preservatives such as creosote,  
28 pentachlorophenol, or copper-chrome-arsenic.

29 (2) "Applicant" means any person who makes application for a site  
30 certification pursuant to the provisions of this chapter.

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

34 (4) "Associated facilities" means storage, transmission, handling,  
35 or other related and supporting facilities connecting an energy plant  
36 with the existing energy supply, processing, or distribution system,  
37 including, but not limited to, communications, controls, mobilizing or

1 maintenance equipment, instrumentation, and other types of ancillary  
2 transmission equipment, off-line storage or venting required for  
3 efficient operation or safety of the transmission system and overhead,  
4 and surface or subsurface lines of physical access for the inspection,  
5 maintenance, and safe operations of the transmission facility and new  
6 transmission lines constructed to operate at nominal voltages of at  
7 least 115,000 volts to connect a thermal power plant or alternative  
8 energy facilities to the northwest power grid. However, common carrier  
9 railroads or motor vehicles shall not be included.

10 (5) "Biofuel" has the same meaning as defined in RCW 43.325.010.

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

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

20 (8) "Council" means the energy facility site evaluation council  
21 created by RCW 80.50.030.

22 (9) "Counsel for the environment" means an assistant attorney  
23 general or a special assistant attorney general who shall represent the  
24 public in accordance with RCW 80.50.080.

25 (10) "Electrical transmission facilities" means electrical power  
26 lines and related equipment.

27 (11) "Energy facility" means an energy plant or transmission  
28 facilities: PROVIDED, That the following are excluded from the  
29 provisions of this chapter:

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

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

35 (12) "Energy plant" means the following facilities together with  
36 their associated facilities:

37 (a) Any nuclear power facility where the primary purpose is to  
38 produce and sell electricity;

1 (b) Any nonnuclear stationary thermal power plant with generating  
2 capacity of three hundred fifty thousand kilowatts or more, measured  
3 using maximum continuous electric generating capacity, less minimum  
4 auxiliary load, at average ambient temperature and pressure, and  
5 floating thermal power plants of one hundred thousand kilowatts or more  
6 suspended on the surface of water by means of a barge, vessel, or other  
7 floating platform;

8 (c) Facilities which will have the capacity to receive liquefied  
9 natural gas in the equivalent of more than one hundred million standard  
10 cubic feet of natural gas per day, which has been transported over  
11 marine waters;

12 (d) Facilities which will have the capacity to receive more than an  
13 average of fifty thousand barrels per day of crude or refined petroleum  
14 or liquefied petroleum gas which has been or will be transported over  
15 marine waters, except that the provisions of this chapter shall not  
16 apply to storage facilities unless occasioned by such new facility  
17 construction;

18 (e) Any underground reservoir for receipt and storage of natural  
19 gas as defined in RCW 80.40.010 capable of delivering an average of  
20 more than one hundred million standard cubic feet of natural gas per  
21 day; ((and))

22 (f) Facilities capable of processing more than twenty-five thousand  
23 barrels per day of petroleum or biofuel into refined products except  
24 where such biofuel production is undertaken at existing industrial  
25 facilities.

26 (13) "Independent consultants" means those persons who have no  
27 financial interest in the applicant's proposals and who are retained by  
28 the council to evaluate the applicant's proposals, supporting studies,  
29 or to conduct additional studies.

30 (14) "Land use plan" means a comprehensive plan or land use element  
31 thereof adopted by a unit of local government pursuant to chapter  
32 35.63, 35A.63, 36.70, or 36.70A RCW, or as otherwise designated by  
33 chapter 325, Laws of 2007.

34 (15) "Person" means an individual, partnership, joint venture,  
35 private or public corporation, association, firm, public service  
36 company, political subdivision, municipal corporation, government  
37 agency, public utility district, or any other entity, public or  
38 private, however organized.

1 (16) "Preapplicant" means a person considering applying for a site  
2 certificate agreement for any transmission facility.

3 (17) "Preapplication process" means the process which is initiated  
4 by written correspondence from the preapplicant to the council, and  
5 includes the process adopted by the council for consulting with the  
6 preapplicant and with cities, towns, and counties prior to accepting  
7 applications for all transmission facilities.

8 (18) "Secretary" means the secretary of the United States  
9 department of energy.

10 (19) "Site" means any proposed or approved location of an energy  
11 facility, alternative energy resource, or electrical transmission  
12 facility.

13 (20) "Thermal power plant" means, for the purpose of certification,  
14 any electrical generating facility using any fuel for distribution of  
15 electricity by electric utilities.

16 (21) "Transmission facility" means any of the following together  
17 with their associated facilities:

18 (a) Crude or refined petroleum or liquid petroleum product  
19 transmission pipeline of the following dimensions: A pipeline larger  
20 than six inches minimum inside diameter between valves for the  
21 transmission of these products with a total length of at least fifteen  
22 miles;

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

30 (22) "Zoning ordinance" means an ordinance of a unit of local  
31 government regulating the use of land and adopted pursuant to chapter  
32 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state  
33 Constitution, or as otherwise designated by chapter 325, Laws of 2007.

34 (23) "Small alternative energy resource facility" means any  
35 facility that meets the definition of a "net metering system" under RCW  
36 80.60.010.

1       **Sec. 3.** RCW 80.50.040 and 2001 c 214 s 6 are each amended to read  
2 as follows:

3       The council shall have the following powers:

4       (1) To adopt, (~~promulgate,~~) amend, or rescind suitable rules and  
5 regulations, pursuant to chapter 34.05 RCW, to carry out the provisions  
6 of this chapter, and the policies and practices of the council in  
7 connection therewith;

8       (2) To develop and apply environmental and ecological guidelines in  
9 relation to the type, design, location, construction, and operational  
10 conditions of certification of energy facilities subject to this  
11 chapter;

12       (3) To establish rules of practice for the conduct of public  
13 hearings pursuant to the provisions of the administrative procedure  
14 act, as found in chapter 34.05 RCW;

15       (4) To prescribe the form, content, and necessary supporting  
16 documentation for site certification;

17       (5) To receive applications for energy facility locations and to  
18 investigate the sufficiency thereof;

19       (6) To make and contract, when applicable, for independent studies  
20 of sites proposed by the applicant;

21       (7) To conduct hearings on the proposed location of the energy  
22 facilities;

23       (8) To prepare written reports to the governor which shall include:  
24 (a) A statement indicating whether the application is in compliance  
25 with the council's guidelines, (b) criteria specific to the site and  
26 transmission line routing, (c) a council recommendation as to the  
27 disposition of the application, and (d) a draft certification agreement  
28 when the council recommends approval of the application;

29       (9) To prescribe the means for monitoring of the effects arising  
30 from the construction and the operation of energy facilities to  
31 (~~assure~~) ensure continued compliance with terms of certification  
32 and/or permits issued by the council pursuant to chapter 90.48 RCW or  
33 subsection (12) of this section: PROVIDED, That any on-site inspection  
34 required by the council shall be performed by other state and local  
35 agencies pursuant to interagency agreement: PROVIDED FURTHER, That the  
36 council may retain authority for determining compliance relative to  
37 monitoring or may delegate authority for ensuring compliance with the

1 terms of the certificate and/or permits to other state or local  
2 agencies;

3 (10) To integrate its site evaluation activity with activities of  
4 federal agencies having jurisdiction in such matters to avoid  
5 unnecessary duplication;

6 (11) To present state concerns and interests to other states,  
7 regional organizations, and the federal government on the location,  
8 construction, and operation of any energy facility which may affect the  
9 environment, health, or safety of the citizens of the state of  
10 Washington;

11 (12) To issue permits in compliance with applicable provisions of  
12 the federally approved state implementation plan adopted in accordance  
13 with the federal clean air act, as now existing or hereafter amended,  
14 for the new construction, reconstruction, or enlargement or operation  
15 of energy facilities: PROVIDED, That such permits shall become  
16 effective only if the governor approves an application for  
17 certification and executes a certification agreement pursuant to this  
18 chapter: AND PROVIDED FURTHER, That all such permits be conditioned  
19 upon compliance with all provisions of the federally approved state  
20 implementation plan which apply to energy facilities covered within the  
21 provisions of this chapter; (~~and~~)

22 (13) To serve as an interagency coordinating body for energy-  
23 related issues; and

24 (14) To issue site permits, using generally established safety  
25 standards as provided under section 8(5) of this act, for the  
26 construction, reconstruction, or enlargement of small alternative  
27 energy resource facilities.

28 **Sec. 4.** RCW 80.50.060 and 2007 c 325 s 2 are each amended to read  
29 as follows:

30 (1) The provisions of this chapter apply to the construction of  
31 energy facilities which includes the new construction of energy  
32 facilities and the reconstruction or enlargement of existing energy  
33 facilities where the net increase in physical capacity or dimensions  
34 resulting from such reconstruction or enlargement meets or exceeds  
35 those capacities or dimensions set forth in RCW 80.50.020 (~~(+7) and~~  
36 ~~(+15)~~) (12) and (21). No construction of such energy facilities may be

1 undertaken, except as otherwise provided in this chapter, after July  
2 15, 1977, without first obtaining certification in the manner provided  
3 in this chapter.

4 (2) The provisions of this chapter apply to the construction,  
5 reconstruction, or enlargement of a new or existing energy facility  
6 that exclusively uses alternative energy resources and chooses to  
7 receive certification under this chapter, regardless of the generating  
8 capacity of the project.

9 (3)(a) The provisions of this chapter apply to the construction,  
10 reconstruction, or modification of electrical transmission facilities  
11 when:

12 (i) The facilities are located in a national interest electric  
13 transmission corridor as specified in RCW 80.50.045;

14 (ii) An applicant chooses to receive certification under this  
15 chapter, and the facilities are: (A) Of a nominal voltage of at least  
16 one hundred fifteen thousand volts and are located in a completely new  
17 corridor, except for the terminus of the new facility or  
18 interconnection of the new facility with the existing grid, and the  
19 corridor is not otherwise used for electrical transmission facilities;  
20 and (B) located in more than one jurisdiction that has promulgated land  
21 use plans or zoning ordinances; or

22 (iii) An applicant chooses to receive certification under this  
23 chapter, and the facilities are: (A) Of a nominal voltage in excess of  
24 one hundred fifteen thousand volts; and (B) located outside an  
25 electrical transmission corridor identified in (a)(i) and (ii) of this  
26 subsection (3).

27 (b) For the purposes of this subsection, "modify" means a  
28 significant change to an electrical transmission facility and does not  
29 include the following: (i) Minor improvements such as the replacement  
30 of existing transmission line facilities or supporting structures with  
31 equivalent facilities or structures; (ii) the relocation of existing  
32 electrical transmission line facilities; (iii) the conversion of  
33 existing overhead lines to underground; or (iv) the placing of new or  
34 additional conductors, supporting structures, insulators, or their  
35 accessories on or replacement of supporting structures already built.

36 (4) The provisions of this chapter shall not apply to normal  
37 maintenance and repairs which do not increase the capacity or



1 dimensions beyond those set forth in RCW 80.50.020 (~~((7) and (15))~~)  
2 (12) and (21).

3 (5) Applications for certification of energy facilities made prior  
4 to July 15, 1977, shall continue to be governed by the applicable  
5 provisions of law in effect on the day immediately preceding July 15,  
6 1977, with the exceptions of RCW 80.50.190 and 80.50.071 which shall  
7 apply to such prior applications and to site certifications  
8 prospectively from July 15, 1977.

9 (6) Applications for certification shall be upon forms prescribed  
10 by the council and shall be supported by such information and technical  
11 studies as the council may require.

12 (7) The provisions of this chapter apply to the installation of a  
13 small alternative energy resource facility if a person chooses to apply  
14 to the council in order to receive site certification for a small  
15 alternative energy resource facility under this chapter.

16 **Sec. 5.** RCW 80.50.071 and 2010 c 152 s 3 are each amended to read  
17 as follows:

18 (1) The council shall receive all applications for energy facility  
19 site certification. Except as provided under sections 8 and 9 of this  
20 act, each applicant shall pay such reasonable costs as are actually and  
21 necessarily incurred by the council in processing an application.

22 (a) Each applicant shall, at the time of application submission,  
23 deposit fifty thousand dollars, or such greater amount as may be  
24 specified by the council after consultation with the applicant. Costs  
25 that may be charged against the deposit include, but are not limited  
26 to, independent consultants' costs, councilmember's wages, employee  
27 benefits, costs of a hearing examiner, costs of a court reporter, staff  
28 salaries, wages and employee benefits, goods and services, travel  
29 expenses, and miscellaneous direct expenses as arise directly from  
30 processing an application.

31 (b) The council may commission its own independent consultant study  
32 to measure the consequences of the proposed energy facility on the  
33 environment or any matter that it deems essential to an adequate  
34 appraisal of the site. The council shall provide an estimate of the  
35 cost of the study to the applicant and consider applicant comments.

36 (c) The council shall submit to each applicant a statement of such  
37 expenditures made during the preceding calendar quarter which shall be

1 in sufficient detail to explain such expenditures. The applicant shall  
2 pay the state treasurer the amount of such statement to restore the  
3 total amount on deposit to the originally established level: PROVIDED,  
4 That such applicant may, at the request of the council, increase the  
5 amount of funds on deposit to cover anticipated expenses during peak  
6 periods of application processing. Any funds remaining unexpended at  
7 the conclusion of application processing shall be refunded to the  
8 applicant, or at the applicant's option, credited against required  
9 deposits of certificate holders.

10 (2) Each certificate holder shall pay such reasonable costs as are  
11 actually and necessarily incurred by the council for inspection and  
12 determination of compliance by the certificate holder with the terms of  
13 the certification relative to monitoring the effects of construction,  
14 operation, and site restoration of the facility.

15 (a) Each certificate holder, within thirty days of execution of the  
16 site certification agreement, shall have on deposit fifty thousand  
17 dollars, or such greater amount as may be specified by the council  
18 after consultation with the certificate holder. Costs that may be  
19 charged against the deposit include, but are not limited to, those  
20 specified in subsection (1)(a) of this section as arise from inspection  
21 and determination of compliance by the certificate holder with the  
22 terms of the certification.

23 (b) The council shall submit to each certificate holder a statement  
24 of such expenditures actually made during the preceding calendar  
25 quarter which shall be in sufficient detail to explain such  
26 expenditures. The certificate holder shall pay the state treasurer the  
27 amount of such statement to restore the total amount on deposit to the  
28 originally established level: PROVIDED, That if the actual  
29 expenditures for inspection and determination of compliance in the  
30 preceding calendar quarter have exceeded the amount of funds on  
31 deposit, such excess costs shall be paid by the certificate holder.

32 (3) If an applicant or certificate holder fails to provide the  
33 initial deposit, or if subsequently required payments are not received  
34 within thirty days following receipt of the statement from the council,  
35 the council may (a) in the case of the applicant, suspend processing of  
36 the application until payment is received; or (b) in the case of a  
37 certificate holder, suspend the certification.

1 (4) All payments required of the applicant or certificate holder  
2 under this section are to be made to the state treasurer who shall make  
3 payments as instructed by the council from the funds submitted. All  
4 such funds shall be subject to state auditing procedures. Any  
5 unexpended portions thereof shall be returned to the applicant or  
6 certificate holder.

7 **Sec. 6.** RCW 80.50.090 and 2006 c 205 s 3 and 2006 c 196 s 6 are  
8 each reenacted and amended to read as follows:

9 (1) The council shall conduct an informational public hearing in  
10 the county of the proposed site as soon as practicable but not later  
11 than sixty days after receipt of an application for site certification.  
12 However, the place of such public hearing shall be as close as  
13 practical to the proposed site.

14 (2) Subsequent to the informational public hearing, the council  
15 shall conduct a public hearing to determine whether or not the proposed  
16 site is consistent and in compliance with city, county, or regional  
17 land use plans or zoning ordinances. If it is determined that the  
18 proposed site does conform with existing land use plans or zoning  
19 ordinances in effect as of the date of the application, the city,  
20 county, or regional planning authority shall not thereafter change such  
21 land use plans or zoning ordinances so as to affect the proposed site.

22 (3) Prior to the issuance of a council recommendation to the  
23 governor under RCW 80.50.100 a public hearing, conducted as an  
24 adjudicative proceeding under chapter 34.05 RCW, the administrative  
25 procedure act, shall be held. At such public hearing any person shall  
26 be entitled to be heard in support of or in opposition to the  
27 application for certification.

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

30 (5) This section does not apply to sections 8 and 9 of this act.

31 **Sec. 7.** RCW 80.50.100 and 1989 c 175 s 174 are each amended to  
32 read as follows:

33 (1) The council shall report to the governor its recommendations as  
34 to the approval or rejection of an application for certification within  
35 twelve months of receipt by the council of such an application, or such  
36 later time as is mutually agreed by the council and the applicant. If

1 the council recommends approval of an application for certification, it  
2 shall also submit a draft certification agreement with the report. The  
3 council shall include conditions in the draft certification agreement  
4 to implement the provisions of this chapter, including, but not limited  
5 to, conditions to protect state or local governmental or community  
6 interests affected by the construction or operation of the energy  
7 facility, and conditions designed to recognize the purpose of laws or  
8 ordinances, or rules or regulations promulgated thereunder, that are  
9 preempted or superseded pursuant to RCW 80.50.110 as now or hereafter  
10 amended.

11 (2)(a) Within sixty days of receipt of the council's report the  
12 governor shall take one of the following actions:

13 (~~(a)~~) (i) Approve the application and execute the draft  
14 certification agreement; or

15 (~~(b)~~) (ii) Reject the application; or

16 (~~(c)~~) (iii) Direct the council to reconsider certain aspects of  
17 the draft certification agreement.

18 (b) The council shall reconsider such aspects of the draft  
19 certification agreement by reviewing the existing record of the  
20 application or, as necessary, by reopening the adjudicative proceeding  
21 for the purposes of receiving additional evidence. Such  
22 reconsideration shall be conducted expeditiously. The council shall  
23 resubmit the draft certification to the governor incorporating any  
24 amendments deemed necessary upon reconsideration. Within sixty days of  
25 receipt of such draft certification agreement, the governor shall  
26 either approve the application and execute the certification agreement  
27 or reject the application. The certification agreement shall be  
28 binding upon execution by the governor and the applicant.

29 (3) The rejection of an application for certification by the  
30 governor shall be final as to that application but shall not preclude  
31 submission of a subsequent application for the same site on the basis  
32 of changed conditions or new information.

33 (4) This section does not apply to sections 8 and 9 of this act.

34 NEW SECTION. Sec. 8. A new section is added to chapter 80.50 RCW  
35 to read as follows:

36 (1) A person may apply to the council for a site permit for a small

1 alternative energy resource facility if one or more of the following  
2 conditions is met:

3 (a) The facility is located in a county or municipality that has  
4 not adopted ordinances for the permitting of small alternative energy  
5 resource facilities;

6 (b) The facility is located in a county or municipality that has  
7 not updated its ordinances for the permitting of small alternative  
8 energy resource facilities in over ten years; or

9 (c) The county or municipal permitting process for a proposed small  
10 alternative energy resource facility exceeds six months from time of  
11 application and the proposed facility meets generally established  
12 safety standards.

13 (2) The application for small alternative energy resource facility  
14 processing must be submitted to the council in the form and manner as  
15 may be determined by motion and vote of the council.

16 (3)(a) Any person, before submitting an application for a small  
17 alternative energy resource facility site permit, may submit a letter  
18 to the council to inquire as to whether a proposed small alternative  
19 energy resource facility would require mitigation and receive a written  
20 estimate from the council of the cost of processing the application.

21 (b) Within thirty days of receiving such a letter of inquiry, the  
22 council must provide a response to what mitigation, at a minimum, might  
23 be required and a written estimate of the cost of processing the site  
24 permit application.

25 (4) The council shall develop a site permitting process for small  
26 alternative energy resource facilities.

27 (5)(a) The council must survey for and determine generally  
28 established safety standards for each type of small alternative energy  
29 resource facility and adopt site permitting standards based on the  
30 council's review of these standards.

31 (b)(i) In surveying for and determining generally established  
32 safety standards, the council must use existing local municipal and  
33 county small alternative energy resource facility ordinances in  
34 Washington adopted in the last ten years.

35 (ii) If there are no existing local municipal and county ordinances  
36 in Washington relating to small alternative energy resource facilities  
37 adopted in the last ten years, then the council must use existing

1 state, local, or municipal ordinances in the western electric  
2 coordinating council geographic area adopted in the last ten years.

3 (iii) If there are no existing state, local, or municipal  
4 ordinances relating to small alternative energy resource facilities in  
5 the western electric coordinating council geographic area adopted in  
6 the last ten years, then the council must use existing state, local, or  
7 municipal ordinances adopted in the United States in the last ten  
8 years.

9 (6) The council may charge a fee that covers the costs incurred by  
10 the council in reviewing a small alternative energy resource facility  
11 site permit and of compliance inspection costs delegated to local  
12 governments where compliance is not preempted by other state agencies  
13 by statute. The council must develop and charge a fee that provides  
14 the lowest possible cost to the applicant.

15 (7) The council may delegate authority to council staff, as deemed  
16 necessary by the council, to issue small alternative energy resource  
17 facility site permits.

18 (8) A small alternative energy resource facility site permit issued  
19 by the council preempts any local ordinance relating to small  
20 alternative energy resource facilities adopted after the issuance of a  
21 small alternative energy resource facility site permit.

22 NEW SECTION. **Sec. 9.** A new section is added to chapter 80.50 RCW  
23 to read as follows:

24 The council and any local government in the state may enter into,  
25 and are encouraged to enter into, an interlocal agreement as provided  
26 under chapter 39.34 RCW for the purpose of authorizing the council to  
27 issue permits for small alternative energy resource facilities within  
28 the geographic jurisdiction of the local government. The council may  
29 serve as the permitting authority for a local government if the local  
30 government determines that it would be more cost-effective for the  
31 council to permit small alternative energy resource facilities within  
32 their jurisdiction. Such an agreement supersedes the provisions  
33 provided under section 8 of this act.

34 NEW SECTION. **Sec. 10.** This act is necessary for the immediate  
35 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect  
2 July 1, 2011.

--- END ---