
SECOND SUBSTITUTE HOUSE BILL 1374

State of Washington 63rd Legislature 2013 Regular Session

By House Appropriations (originally sponsored by Representatives Morris and Fey)

READ FIRST TIME 03/01/13.

1 AN ACT Relating to the energy facility site evaluation council;
2 amending RCW 80.50.010, 80.50.040, 80.50.045, 80.50.060, 80.50.071,
3 80.50.075, 80.50.085, 80.50.100, 80.50.105, 80.50.110, and 80.50.120;
4 reenacting and amending RCW 80.50.020 and 80.50.030; adding new
5 sections to chapter 80.50 RCW; adding a new section to chapter 43.21C
6 RCW; and repealing RCW 80.50.080, 80.50.090, and 80.50.320.

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

8 **Sec. 1.** RCW 80.50.010 and 2001 c 214 s 1 are each amended to read
9 as follows:

10 The legislature finds that the present and predicted growth in
11 energy demands in the state of Washington requires the development of
12 a procedure for the selection and utilization of sites for energy
13 facilities and the identification of a state position with respect to
14 ~~((each))~~ the proposed site. The legislature also finds that there is
15 a critical need for infrastructure to ensure the safe and reliable
16 operations of electrical generation and energy transmission systems in
17 Washington and the region. The legislature recognizes that the
18 selection of sites will have a significant impact upon the welfare of

1 the population, the location and growth of industry and the use of the
2 natural resources of the state.

3 It is the policy of the state of Washington to recognize the
4 (~~pressing~~) need for increased energy facilities, and to ensure
5 through available and reasonable methods, that the location and
6 operation of (~~such~~) facilities will produce minimal adverse effects
7 on the environment, ecology of the land and its wildlife, and the
8 ecology of state waters and their aquatic life.

9 It is the intent to seek courses of action that will balance the
10 increasing demands for energy facility location and operation in
11 conjunction with the broad interests of the public. Such action will
12 be based on these premises:

13 (1) To assure Washington state citizens that, where applicable,
14 operational safeguards are at least as stringent as the criteria
15 established by the federal government and are technically sufficient
16 for their welfare and protection.

17 (2) To preserve and protect the quality of the environment; to
18 enhance the public's opportunity to enjoy the esthetic and recreational
19 benefits of the air, water and land resources; to promote air
20 cleanliness; and to pursue beneficial changes in the environment.

21 (~~(3) (To provide abundant energy at reasonable cost.~~
22 ~~(4))~~) To avoid costs of complete site restoration and demolition of
23 improvements and infrastructure at unfinished nuclear energy sites, and
24 to use unfinished nuclear energy facilities for public uses, including
25 economic development, under the regulatory and management control of
26 local governments and port districts.

27 ((~~+5~~)) (4) To avoid costly duplication in the siting process and
28 ensure that decisions are made timely and without unnecessary delay.

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

31 The definitions in this section apply throughout this chapter
32 unless the context clearly requires otherwise.

33 (1) "Alternative energy resource" includes energy facilities of the
34 following types: (a) Wind; (b) solar energy; (c) geothermal energy;
35 (d) landfill gas; (e) wave or tidal action; (~~(f)~~) (f) energy storage;
36 or (g) biomass energy based on solid organic fuels from wood, forest,

1 or field residues, or dedicated energy crops that do not include wood
2 pieces that have been treated with chemical preservatives such as
3 creosote, pentachlorophenol, or copper-chrome-arsenic.

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

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

9 (4) "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 of at
19 least 115,000 volts to connect a thermal power plant or alternative
20 energy facilities to the northwest power grid. However, common carrier
21 railroads or motor vehicles shall not be included.

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

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

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

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

34 (9) "Counsel for the environment" means an assistant attorney
35 general or a special assistant attorney general who shall represent the
36 public (~~in accordance with RCW 80.50.080~~).

37 (10) "Electrical transmission facilities" means electrical power
38 lines and related equipment.

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

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

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

9 (12) "Energy plant" means the following facilities together with
10 their associated facilities:

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

13 (b) Any nonnuclear stationary thermal power plant (~~((with generating
14 capacity of three hundred fifty thousand kilowatts or more, measured
15 using maximum continuous electric generating capacity, less minimum
16 auxiliary load, at average ambient temperature and pressure,))~~) and
17 floating thermal power plants (~~((of one hundred thousand kilowatts or
18 more))~~) suspended on the surface of water by means of a barge, vessel,
19 or other floating platform;

20 (c) Facilities which will have the capacity to (~~((receive))~~) import
21 or export liquefied natural gas (~~((in the equivalent of more than one
22 hundred million standard cubic feet of natural gas per day, which))~~)
23 that has been or will be transported over land or marine waters;

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

30 (e) Any underground reservoir for receipt and storage of natural
31 gas as defined in RCW 80.40.010 (~~((capable of delivering an average of
32 more than one hundred million standard cubic feet of natural gas per
33 day))~~); (~~((and))~~)

34 (f) Facilities capable of processing more than twenty-five thousand
35 barrels per day of petroleum or biofuel into refined products except
36 where such biofuel production is undertaken at existing industrial
37 facilities; and

38 (g) Any alternative energy resource.

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

5 (14) "Land use plan" means a comprehensive plan or land use element
6 thereof adopted by a unit of local government pursuant to chapter
7 35.63, 35A.63, 36.70, or 36.70A RCW, or as otherwise designated by
8 chapter 325, Laws of 2007.

9 (15) "Person" means an individual, partnership, joint venture,
10 private or public corporation, association, firm, public service
11 company, political subdivision, municipal corporation, government
12 agency, public utility district, or any other entity, public or
13 private, however organized.

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

16 (17) "Preapplication process" means the process which is initiated
17 by written correspondence from the preapplicant to the council, and
18 includes the process adopted by the council for consulting with the
19 preapplicant and with cities, towns, and counties prior to accepting
20 applications for all transmission facilities.

21 (18) "Secretary" means the secretary of the United States
22 department of energy.

23 (19) "Site" means any proposed or approved location of an energy
24 facility, alternative energy resource, or electrical transmission
25 facility.

26 (20) "Thermal power plant" means, for the purpose of certification,
27 any electrical generating facility (~~(using)~~) combusting any gaseous,
28 liquid, or solid fuel (~~(for distribution of electricity by electric~~
29 ~~utilities)~~) or using heat to create steam for the generation of
30 electricity.

31 (21) "Transmission pipeline facility" means any of the following
32 together with their associated facilities:

33 (a) Crude or refined petroleum or liquid petroleum product
34 transmission pipeline of the following dimensions: (i) A pipeline
35 larger than (~~(six)~~) fifteen inches minimum inside diameter between
36 valves for the transmission of these products (~~(with a total length of~~
37 ~~at least fifteen miles)~~); or (ii) any combination of pipelines capable

1 of transmitting an equal volume of product as a pipeline under (a)(i)
2 of this subsection;

3 (b) Natural gas, synthetic fuel gas, or liquefied petroleum gas
4 transmission pipeline (~~(of the following dimensions:—A pipeline larger~~
5 ~~than fourteen inches minimum inside diameter between valves, for the~~
6 ~~transmission of these products,)) with a total length of at least
7 fifteen miles that operates in excess of twenty percent of the
8 specified minimum yield strength and the pipeline is used for the
9 purpose of delivering gas to a distribution facility, except an
10 interstate natural gas pipeline regulated by the United States federal
11 power commission; and~~

12 (c) A transmission pipeline facility may include a pipeline
13 carrying federally listed hazardous waste to the energy facility.

14 (22) "Zoning ordinance" means an ordinance of a unit of local
15 government regulating the use of land and adopted pursuant to chapter
16 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state
17 Constitution, or as otherwise designated by chapter 325, Laws of 2007.

18 (23) "Electric utility" means an electric utility, as the term
19 "electric utility" is defined in RCW 19.29A.010.

20 (24) "Proven energy technology" means any energy technology used in
21 an energy facility offered for sale in the United States and
22 preapproved by the council.

23 **Sec. 3.** RCW 80.50.030 and 2010 c 271 s 601 and 2010 c 152 s 2 are
24 each reenacted and amended to read as follows:

25 (1) There is created and established the energy facility site
26 evaluation council.

27 (2)(a) The chair of the council shall be appointed by the governor
28 with the advice and consent of the senate, shall have a vote on matters
29 before the council, shall serve for a term coextensive with the term of
30 the governor, and is removable for cause. The chair may designate a
31 member of the council to serve as acting chair in the event of the
32 chair's absence. The salary of the chair shall be determined under RCW
33 43.03.040. The chair is a "state employee" for the purposes of chapter
34 42.52 RCW. As applicable, when attending meetings of the council,
35 members may receive reimbursement for travel expenses in accordance
36 with RCW 43.03.050 and 43.03.060, and are eligible for compensation
37 under RCW 43.03.250.

1 (b) The chair or a designee shall execute all official site
2 application documents(~~((, contracts,))~~) and other materials on behalf of
3 the council. The chair shall manage the scheduling of all public
4 meetings necessary for site certification of an energy facility and
5 preside over meetings of the council. The Washington utilities and
6 transportation commission shall provide all administrative and staff
7 support for the council. The commission has supervisory authority over
8 the staff of the council and shall employ such personnel as are
9 necessary to implement this chapter. Not more than three such
10 employees may be exempt from chapter 41.06 RCW. The utilities and
11 transportation commission shall serve as the fiscal agent for the
12 council, ensuring compliance with state law, and shall execute
13 contracts in consultation with the council. The council shall
14 otherwise retain its independence in exercising its powers, functions,
15 and duties (~~((and its supervisory control over nonadministrative staff~~
16 ~~support))~~) relating to site applications. Membership, powers,
17 functions, and duties of the Washington state utilities and
18 transportation commission and the council shall otherwise remain as
19 provided by law.

20 (3)(a) The council shall consist of (~~(the—directors,~~
21 ~~administrators, or their designees, of the following departments,~~
22 ~~agencies, commissions, and committees or their statutory successors:~~

- 23 ~~(i) Department of ecology;~~
- 24 ~~(ii) Department of fish and wildlife;~~
- 25 ~~(iii) Department of commerce;~~
- 26 ~~(iv) Utilities and transportation commission; and~~
- 27 ~~(v) Department of natural resources.~~

28 ~~(b) The directors, administrators, or their designees, of the~~
29 ~~following departments, agencies, and commissions, or their statutory~~
30 ~~successors, may participate as councilmembers at their own discretion~~
31 ~~provided they elect to participate no later than sixty days after an~~
32 ~~application is filed:~~

- 33 ~~(i) Department of agriculture;~~
- 34 ~~(ii) Department of health;~~
- 35 ~~(iii) Military department; and~~
- 36 ~~(iv) Department of transportation.~~

37 ~~(c) Council membership is discretionary for agencies that choose to~~
38 ~~participate under (b) of this subsection only for applications that are~~

1 ~~filed with the council on or after May 8, 2001. For applications filed~~
2 ~~before May 8, 2001, council membership is mandatory for those agencies~~
3 ~~listed in (b) of this subsection):~~

4 (i) Two members of the growth management hearings board, preferably
5 with experience or training in energy facilities or environmental
6 impact analyses under the state environmental policy act;

7 (ii) The director, administrator, or their designee, of the
8 department of fish and wildlife; and

9 (iii) The director, administrator, or their designee, of the
10 department of ecology.

11 (b) If the proposed energy facility is proposed to be sited on or
12 across shorelines of the state, as defined in RCW 90.58.030, or forest
13 land, as defined in RCW 76.09.020, the chair shall invite, depending on
14 the impacts, a member from the shorelines hearings board for proposals
15 that involve shorelines of the state and a designee from the department
16 of natural resources for proposals that involve forest land to
17 participate as a council member. If a member of the shorelines
18 hearings board or a designee from the department of natural resources
19 is invited and participates in the site certification of a proposed
20 energy facility, that council member or designee shall serve on the
21 council in place of one of the two growth management hearings board
22 members.

23 (4) The appropriate county legislative authority of every county
24 wherein an application for a proposed site is filed shall appoint a
25 member or designee as a voting member to the council. The member or
26 designee so appointed shall sit with the council only at such times as
27 the council considers the proposed site for the county which he or she
28 represents, and such member or designee shall serve until there has
29 been a final acceptance or rejection of the proposed site.

30 (5) The city legislative authority of every city within whose
31 corporate limits an energy facility is proposed to be located shall
32 appoint a member or designee as a voting member to the council. The
33 member or designee so appointed shall sit with the council only at such
34 times as the council considers the proposed site for the city which he
35 or she represents, and such member or designee shall serve until there
36 has been a final acceptance or rejection of the proposed site.

37 (6) For any port district wherein an application for a proposed
38 port facility is filed subject to this chapter, the port district shall

1 appoint a member or designee as a nonvoting member to the council. The
2 member or designee so appointed shall sit with the council only at such
3 times as the council considers the proposed site for the port district
4 which he or she represents, and such member or designee shall serve
5 until there has been a final acceptance or rejection of the proposed
6 site. The provisions of this subsection shall not apply if the port
7 district is the applicant, either singly or in partnership or
8 association with any other person.

9 (7) If the proposed energy facility is a nuclear power plant, the
10 department of health shall appoint a designee from the department as a
11 voting member of the council. The appointed designee shall sit with
12 the council only at such times as the council considers the proposed
13 site for a nuclear power plant, and the designee shall serve until
14 there has been a final acceptance or rejection of the proposed site.

15 **Sec. 4.** RCW 80.50.040 and 2001 c 214 s 6 are each amended to read
16 as follows:

17 The council shall have the following powers:

18 (1) To adopt, promulgate, amend, or rescind suitable rules and
19 regulations, pursuant to chapter 34.05 RCW, to carry out the provisions
20 of this chapter, and the policies and practices of the council in
21 connection therewith;

22 (2) To develop and apply environmental and ecological guidelines
23 and standards in relation to the type, design, location, construction,
24 and operational conditions of certification of energy facilities
25 subject to this chapter;

26 (3) To establish rules of practice for the conduct of public
27 hearings (~~((pursuant to the provisions of the Administrative Procedure~~
28 ~~Act, as found in chapter 34.05 RCW))~~);

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

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

33 (6) To (~~make and~~) enter into contracts, when applicable, for
34 independent studies of sites proposed by the applicant, subject to the
35 provisions of RCW 39.26.120;

36 (7) To conduct hearings on the proposed location of the energy
37 facilities;

1 (8) (~~To prepare written reports to the governor which shall~~
2 ~~include: (a) A statement indicating whether the application is in~~
3 ~~compliance with the council's guidelines, (b) criteria specific to the~~
4 ~~site and transmission line routing, (c) a council recommendation as to~~
5 ~~the disposition of the application, and (d) a draft certification~~
6 ~~agreement when the council recommends approval of the application;~~) To
7 approve or deny an application for site certification of a proposed
8 energy facility;

9 (9) To prescribe the means for monitoring of the effects arising
10 from the construction and the operation of energy facilities to assure
11 continued compliance with terms of certification and/or permits issued
12 by the council pursuant to chapter 90.48 RCW or subsection (12) of this
13 section: PROVIDED, That any on-site inspection required by the council
14 shall be performed by other state agencies pursuant to interagency
15 agreement: PROVIDED FURTHER, That the council may retain authority for
16 determining compliance relative to monitoring;

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

20 (11) To present state concerns and interests to other states,
21 regional organizations, and the federal government on the location,
22 construction, and operation of any energy facility which may affect the
23 environment, health, or safety of the citizens of the state of
24 Washington;

25 (12) To issue permits in compliance with applicable provisions of
26 the federally approved state implementation plan adopted in accordance
27 with the Federal Clean Air Act, as now existing or hereafter amended,
28 for the new construction, reconstruction, or enlargement or operation
29 of energy facilities: PROVIDED, That such permits shall become
30 effective only if the (~~governor~~) council approves an application for
31 certification and executes a certification agreement pursuant to this
32 chapter: AND PROVIDED FURTHER, That all such permits be conditioned
33 upon compliance with all provisions of the federally approved state
34 implementation plan which apply to energy facilities covered within the
35 provisions of this chapter; (~~and~~)

36 (13) To serve as an interagency coordinating body for energy-
37 related issues;

1 (14) To develop minimum siting standards for cities and counties in
2 relation to the type, design, location, construction, operational
3 conditions, and decommissioning of energy facilities subject to this
4 chapter; and

5 (15) To enter into interlocal agreements with cities and counties
6 for the purpose of issuing site certifications for energy facilities
7 within the geographic jurisdiction of the local government.

8 **NEW SECTION. Sec. 5.** A new section is added to chapter 80.50 RCW
9 to read as follows:

10 (1) Beginning December 1, 2014, the council must use:

11 (a) Council standards as provided under Title 463 WAC for the
12 siting, construction, operation, and decommissioning of energy
13 facilities; or

14 (b) For issues not addressed in the standards in (a) of this
15 subsection, Oregon Administrative Rules, chapter 345, in effect as of
16 January 1, 2013, except for the following:

17 (i) Oregon Administrative Rule 345-023-0005;

18 (ii) Oregon Administrative Rule 345-023-0020;

19 (iii) Oregon Administrative Rule 345-023-0030;

20 (iv) Oregon Administrative Rule 345-023-0040; and

21 (v) Oregon Administrative Rule 345-024-0500.

22 (2) The council may issue a site certificate for an energy facility
23 that does not meet one or more of the standards adopted under
24 subsection (1) of this section if the council determines that the
25 overall public benefits of the energy facility outweigh the impact on
26 the resources protected by the standards the facility does not meet.

27 (3)(a) By December 1, 2015, cities and counties must use the
28 minimum standards in subsection (1) of this section when permitting
29 energy facilities.

30 (b) The council and any local government in the state may enter
31 into, and are encouraged to enter into, an interlocal agreement as
32 provided under chapter 39.34 RCW for the purpose of authorizing the
33 council to issue site certifications for energy facilities within the
34 geographic jurisdiction of the local government.

35 (4)(a) The council shall maintain a list of proven energy
36 technologies to be granted expedited processing under this chapter. An
37 energy technology company may seek preapproval of its energy technology

1 by submitting to the council a proven energy technology preapproval
2 application to the council. The council shall impose a charge to cover
3 necessary costs to process the preapproval application.

4 (b) For each preapproval application submitted by an applicant
5 under (a) of this subsection, the council shall develop through rule
6 making the standards an energy technology must meet to be preapproved
7 as a proven energy technology. The council shall collect a fee from
8 the applicant to recover the cost of the rule making.

9 (5) Any person may petition the council to request the adoption,
10 amendment, or repeal of any council rule as allowed in RCW 34.05.330.
11 Any person petitioning the council requesting the adoption, amendment,
12 or repeal of any council rule is responsible for reimbursing the
13 council for cost associated with adopting, amending, or repealing a
14 rule.

15 **Sec. 6.** RCW 80.50.045 and 2006 c 196 s 3 are each amended to read
16 as follows:

17 (1)(a) The council shall consult with other state agencies,
18 utilities, local municipal governments, public interest groups, tribes,
19 and other interested persons to convey their views to the secretary and
20 the federal energy regulatory commission regarding appropriate limits
21 on federal regulatory authority in the siting of electrical
22 transmission corridors in the state of Washington.

23 ((+2)) (b) The council is designated as the state authority for
24 purposes of siting electrical transmission facilities under the
25 national energy policy act of 2005 and for purposes of other such rules
26 or regulations adopted by the secretary. The council's authority
27 regarding electrical transmission facilities is limited to those
28 electrical transmission facilities that are the subject of section 1221
29 of the national energy policy act and this chapter.

30 ((+3)) (c) For the construction and modification of electrical
31 transmission facilities that are the subject of section 1221 of the
32 national energy policy act, the council may: ((+a)) (i) Approve the
33 siting of the facilities; and ((+b)) (ii) consider the interstate
34 benefits expected to be achieved by the proposed construction or
35 modification of the facilities in the state.

36 ((+4)) (d) When developing recommendations as to the disposition
37 of an application for the construction or modification of electrical

1 transmission facilities under this chapter, the fuel source of the
2 electricity carried by the transmission facilities shall not be
3 considered.

4 (2) The council shall monitor the activities of the federal energy
5 regulatory commission and may receive notifications for energy projects
6 located in Washington that are under the regulatory oversight of the
7 federal energy regulatory commission. These notifications must
8 include, but are not limited to, project filings, delegated orders,
9 notices, and the federal energy regulatory commission decisions.

10 **Sec. 7.** RCW 80.50.060 and 2007 c 325 s 2 are each amended to read
11 as follows:

12 (1)(a) Except as provided under (b) and (c) of this subsection, the
13 provisions of this chapter apply to the construction of energy
14 facilities which includes the new construction of energy facilities
15 ((and the reconstruction or enlargement of existing energy facilities
16 where the net increase in physical capacity or dimensions resulting
17 from such reconstruction or enlargement meets or exceeds those
18 capacities or dimensions set forth in RCW 80.50.020 (7) and (15). No
19 construction of such energy facilities may be undertaken, except as
20 otherwise provided in this chapter, after July 15, 1977, without first
21 obtaining certification in the manner provided in this chapter.

22 ~~(2) The provisions of this chapter apply to the construction,~~
23 ~~reconstruction, or enlargement of a new or existing energy facility~~
24 ~~that exclusively uses alternative energy resources and chooses to~~
25 ~~receive certification under this chapter, regardless of the generating~~
26 ~~capacity of the project)) if the applicant chooses to receive~~
27 ~~certification under this chapter.~~

28 ~~((3)) (b) Any proposed nuclear power facility in Washington,~~
29 ~~where the primary purpose is to produce and sell electricity, must~~
30 ~~apply to the council for site certification.~~

31 (c) Any proposed transmission pipeline facility in Washington where
32 the proposed facility may be located in more than one local government
33 jurisdiction must apply to the council for site certification.

34 (2)(a) The provisions of this chapter apply to the construction,
35 reconstruction, or modification of electrical transmission facilities
36 when:

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

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

11 (iii) An applicant chooses to receive certification under this
12 chapter, and the facilities are: (A) Of a nominal voltage in excess of
13 one hundred fifteen thousand volts; and (B) located outside an
14 electrical transmission corridor identified in (a)(i) and (ii) of this
15 subsection (~~((+3))~~) (2).

16 (b) For the purposes of this subsection, "modify" means a
17 significant change to an electrical transmission facility and does not
18 include the following: (i) Minor improvements such as the replacement
19 of existing electrical transmission line facilities or supporting
20 structures with equivalent facilities or structures; (ii) the
21 relocation of existing electrical transmission line facilities; (iii)
22 the conversion of existing overhead lines to underground; or (iv) the
23 placing of new or additional conductors, supporting structures,
24 insulators, or their accessories on or replacement of supporting
25 structures already built.

26 (~~((+4))~~) (3) The provisions of this chapter shall not apply to
27 normal maintenance and repairs which do not increase the capacity or
28 dimensions (~~((beyond those set forth in RCW 80.50.020 (7) and (15))~~) of
29 an energy facility.

30 (4) The provisions of this chapter do not apply to an energy
31 facility that previously has been approved or denied by a local
32 government.

33 (5) Applications for certification of energy facilities made prior
34 to July 15, 1977, shall continue to be governed by the applicable
35 provisions of law in effect on the day immediately preceding July 15,
36 1977, with the exceptions of RCW 80.50.190 and 80.50.071 which shall
37 apply to such prior applications and to site certifications
38 prospectively from July 15, 1977.

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

4 NEW SECTION. **Sec. 8.** A new section is added to chapter 80.50 RCW
5 to read as follows:

6 (1) Each applicant for a site certificate shall submit to the
7 council a preliminary application for a site certificate. The
8 preliminary application must provide information about the proposed
9 site and the characteristics of the energy facility sufficient for the
10 preparation of the council's notice of application requirements.

11 (2)(a) The chair of the council shall provide notice to the public
12 within three working days of receiving a preliminary application. The
13 public notice must provide a description of the proposed site and
14 facility in sufficient detail to inform the public of the location and
15 proposed use of the site. The public has fourteen days to provide
16 comment on the preliminary application.

17 (b) After the chair of the council provides public notice, a city,
18 county, or regional planning authority may not change land use plans or
19 zoning ordinances so as to affect the proposed site.

20 (3) Within three working days after the chair of the council
21 provides public notice, an applicant for a site certification shall
22 distribute the preliminary application to any agency that has
23 regulatory or advisory responsibility with respect to the facility and
24 any city or county affected by the application.

25 (4)(a) Following review of the preliminary application and any
26 public comments received in response to the public notice, the council
27 shall hold a public information meeting with state agencies and local
28 governments that have regulatory or advisory responsibility with
29 respect to the facility.

30 (b) The public information meeting must be held in the vicinity of
31 the proposed project after providing public notice.

32 (c) At the public information meeting, any person is entitled to be
33 heard in support of or in opposition to the preliminary application.

34 (5) No more than thirty days after receiving a preliminary
35 application, the chair of the council shall issue a notice of
36 application requirements establishing the statutes, administrative
37 rules, council standards, local ordinances, application requirements,

1 and study requirements for the site certificate application. The chair
2 of the council may consider whether the proposed facility is in
3 compliance with city, county, or regional land use plans or zoning
4 ordinances and may specify additional requirements in the notice of
5 application based on a review of plans and ordinances where the
6 proposed facility is to be located.

7 (6) Following issuance of the notice of application requirements,
8 an applicant shall submit an application for site certification
9 consistent with the notice of application requirements within fifteen
10 days.

11 (7) The chair of the council shall determine within fifteen days of
12 submission of the application whether an application meets the
13 council's requirements.

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

16 (1)(a) Following requirements set forth under chapter 43.21C RCW,
17 the chair must oversee an environmental review of the proposed energy
18 facility.

19 (b) After the chair of the council determines whether an
20 application meets council requirements as provided under section 8 of
21 this act, the chair shall within three working days initiate a scoping
22 process to determine the range of proposed actions, alternatives, and
23 impacts to be examined in the environmental impact statement.

24 (c) The chair of the council shall notify any agency that has
25 regulatory or advisory responsibility with respect to the facility and
26 any city or county affected by the application of the scoping process.

27 (d) Within sixty days of initiating the scoping process, the chair
28 of the council shall conduct a public hearing and submit scoping
29 recommendations to the council in order for the council to establish a
30 timeline for the environmental review of the proposed energy facility.

31 (e) Within fourteen days of receiving the timeline recommendations
32 from the chair of the council, the council must determine whether the
33 environmental review process as required under chapter 43.21C RCW for
34 the proposed energy facility must be completed within six months,
35 twelve months, or longer. In determining the timeline, the council may
36 adjust the timeline depending on the proposed energy facility's
37 compliance with the standards developed under section 5 of this act.

1 If a proposed energy facility meets the energy facility siting
2 standards under section 5 of this act, the environmental review of the
3 proposed energy facility must be completed within six months. The
4 environment review for proposed energy facilities that do not meet the
5 standards in section 5 of this act must be completed within twelve
6 months, unless the council determines that due to the complexity of the
7 proposed energy facility, the environmental review should be longer.

8 (f) If the council establishes an environmental review process for
9 more than six months, the attorney general shall appoint an assistant
10 attorney general as a counsel for the environment. The counsel for the
11 environment shall represent the public and its interest in protecting
12 the quality of the environment. Costs incurred by the counsel for the
13 environment in the performance of these duties must be charged to the
14 office of the attorney general, and may not be a charge against the
15 appropriation to the energy facility site evaluation council. The
16 counsel for the environment must be accorded all the rights,
17 privileges, and responsibilities of an attorney representing a party in
18 a formal action. This section may not be construed to prevent any
19 person from being heard or represented by counsel in accordance with
20 the other provisions of this chapter.

21 (g) Within the timeline established by the council, the chair of
22 the council shall publish a draft environmental impact statement,
23 solicit comments on the draft environmental impact statement, hold a
24 public hearing on the draft environmental impact statement, consider
25 comments received on the draft environmental impact statement, and
26 submit to the council a recommended final environmental impact
27 statement. In submitting the recommended final environmental impact
28 statement to the council, the chair shall specify whether there are any
29 disputed items based on public input provided during the development of
30 the recommended final environmental impact statement.

31 (i) If there are disputed items in the recommended final
32 environmental impact statement, the council shall hold a public hearing
33 within fifteen days on the draft environmental impact statement under
34 this subsection (1)(g). At the hearing, the chair shall provide a
35 report to the council regarding the recommended environmental impact
36 statement and regarding the disputed items in the recommended
37 environmental impact statement. The issues that may be considered at
38 the public hearing under this subsection are limited to those issues

1 raised during the preliminary application process and during the
2 environmental review process that lead to the development of the
3 recommended environmental impact statement. The chair shall specify to
4 the council the basis for decisions made relating to the disputed items
5 contained in the recommended final environmental impact statement.
6 Based on the input of the chair, the applicant, and the public at the
7 public hearing, the council may elect to address the disputed items
8 from the recommended environmental impact statement in the final
9 environmental impact statement. The council shall issue the final
10 environmental impact statement within fifteen days of the public
11 hearing required under this subsection.

12 (ii) If there are no disputed items in the recommended final
13 environmental impact statement, the chair shall submit to the council
14 the recommended final environmental impact statement within fifteen
15 days of the public hearing under this subsection (1)(g) and the council
16 shall adopt the recommended final environmental impact statement as the
17 final environmental impact statement.

18 (2) The council may contract with independent consultants to review
19 information from the public hearing and to prepare the draft and final
20 environmental impact assessments.

21 NEW SECTION. **Sec. 10.** A new section is added to chapter 80.50 RCW
22 to read as follows:

23 (1) Within fifteen days of issuing the final environmental impact
24 statement, the chair of the council shall prepare and issue an initial
25 order and draft site certification based on the final environmental
26 impact statement.

27 (2) Within fifteen days of receiving an initial order and draft
28 site certification, the council must make a final decision on the
29 application. The council must either approve the application and
30 execute the draft certification agreement or reject the application for
31 site certification. If the council fails to make a final decision, the
32 initial order submitted by the chair becomes the final order on the
33 fifteenth day following receipt of the initial order.

34 **Sec. 11.** RCW 80.50.071 and 2011 c 261 s 1 are each amended to read
35 as follows:

36 (1) The council shall receive all preliminary applications and

1 applications for energy facility site certification under this chapter.
2 Each applicant shall pay such reasonable costs as are actually and
3 necessarily incurred by the council in processing a preliminary
4 application or an application.

5 (a) Each applicant shall, at the time of application submission,
6 deposit fifty thousand dollars, or such greater amount as may be
7 specified by the council after consultation with the applicant. Costs
8 that may be charged against the deposit include, but are not limited
9 to, independent consultants' costs, councilmember's wages, employee
10 benefits, costs of a hearing examiner, costs of a court reporter, staff
11 salaries, wages and employee benefits, goods and services, travel
12 expenses, and miscellaneous direct expenses as arise directly from
13 processing an application.

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

19 (c) The council shall submit to each applicant a statement of such
20 expenditures made during the preceding calendar quarter which shall be
21 in sufficient detail to explain such expenditures. The applicant shall
22 pay the state treasurer the amount of such statement to restore the
23 total amount on deposit to the originally established level: PROVIDED,
24 That such applicant may, at the request of the council, increase the
25 amount of funds on deposit to cover anticipated expenses during peak
26 periods of application processing. Any funds remaining unexpended at
27 the conclusion of application processing shall be refunded to the
28 applicant, or at the applicant's option, credited against required
29 deposits of certificate holders.

30 (2) Each certificate holder shall pay such reasonable costs as are
31 actually and necessarily incurred by the council for inspection and
32 determination of compliance by the certificate holder with the terms of
33 the certification relative to monitoring the effects of construction,
34 operation, and site restoration of the facility.

35 (a) Each certificate holder, within thirty days of execution of the
36 site certification agreement, shall have on deposit fifty thousand
37 dollars, or such greater amount as may be specified by the council
38 after consultation with the certificate holder. Costs that may be

1 charged against the deposit include, but are not limited to, those
2 specified in subsection (1)(a) of this section as arise from inspection
3 and determination of compliance by the certificate holder with the
4 terms of the certification.

5 (b) The council shall submit to each certificate holder a statement
6 of such expenditures actually made during the preceding calendar
7 quarter which shall be in sufficient detail to explain such
8 expenditures. The certificate holder shall pay the state treasurer the
9 amount of such statement to restore the total amount on deposit to the
10 originally established level: PROVIDED, That if the actual
11 expenditures for inspection and determination of compliance in the
12 preceding calendar quarter have exceeded the amount of funds on
13 deposit, such excess costs shall be paid by the certificate holder.

14 (3) If an applicant or certificate holder fails to provide the
15 initial deposit, or if subsequently required payments are not received
16 within thirty days following receipt of the statement from the council,
17 the council may (a) in the case of the applicant, suspend processing of
18 the application until payment is received; or (b) in the case of a
19 certificate holder, suspend the certification.

20 (4) All payments required of the applicant or certificate holder
21 under this section are to be made to the state treasurer who shall make
22 payments as instructed by the council from the funds submitted. All
23 such funds shall be subject to state auditing procedures. Any
24 unexpended portions thereof shall be returned to the applicant or
25 certificate holder.

26 (5)(a) Upon receipt of an application for an energy facility site
27 certification proposing an energy plant (~~(or alternative energy~~
28 ~~resource))~~) that is connected to electrical transmission facilities of
29 a nominal voltage of at least one hundred fifteen thousand volts, the
30 council shall notify in writing the United States department of
31 defense. The notification shall include, but not be limited to, the
32 following:

33 (i) A description of the proposed energy plant or alternative
34 energy resource;

35 (ii) The location of the site;

36 (iii) The placement of the energy plant or alternative energy
37 resource on the site;

1 (iv) The date and time by which comments must be received by the
2 council; and

3 (v) Contact information of the council and the applicant.

4 (b) The purpose of the written notification is to provide an
5 opportunity for the United States department of defense to comment upon
6 the application, and to identify potential issues relating to the
7 placement and operations of the energy plant or alternative energy
8 resource, before a site certification application is approved. The
9 time period set forth by the council for receipt of such comments shall
10 not extend the time period for the council's processing of the
11 application.

12 (c) In order to assist local governments required to notify the
13 United States department of defense under RCW 35.63.270, 35A.63.290,
14 and 36.01.320, the council shall post on its web site the appropriate
15 information for contacting the United States department of defense.

16 **Sec. 12.** RCW 80.50.075 and 2006 c 205 s 2 are each amended to read
17 as follows:

18 (1) Any person filing an application for certification of an energy
19 facility (~~((or an alternative energy resource facility))~~) pursuant to
20 this chapter may apply to the council for an expedited processing of
21 such an application. The application for expedited processing shall be
22 submitted to the council in such form and manner and accompanied by
23 such information as may be prescribed by council rule. The council may
24 grant an applicant expedited processing of an application for
25 certification upon finding that the environmental impact of the
26 proposed energy facility is not significant or will be mitigated to a
27 nonsignificant level under RCW 43.21C.031 (~~((and the project is found
28 under RCW 80.50.090(2) to be consistent and in))~~). Review must consider
29 compliance with city, county, or regional land use plans or zoning
30 ordinances.

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

33 (a) Commission an independent study to further measure the
34 consequences of the proposed energy facility (~~((or alternative energy
35 resource facility))~~) on the environment, notwithstanding the other
36 provisions of RCW 80.50.071; nor

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

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

6 **Sec. 13.** RCW 80.50.085 and 2001 c 214 s 5 are each amended to read
7 as follows:

8 (1) After the council has received a preliminary site application,
9 council staff shall assist applicants in identifying issues presented
10 by the preliminary application and the application.

11 (2) Council staff shall review all information submitted and
12 recommend resolutions to issues in dispute that would allow site
13 approval.

14 (3) Council staff may make recommendations to the council on
15 conditions that would allow site approval.

16 **Sec. 14.** RCW 80.50.100 and 2011 c 180 s 109 are each amended to
17 read as follows:

18 ~~((1)(a) The council shall report to the governor its
19 recommendations as to the approval or rejection of an application for
20 certification within twelve months of receipt by the council of such an
21 application, or such later time as is mutually agreed by the council
22 and the applicant.~~

23 ~~(b))~~ In the case of an application filed prior to December 31,
24 2025, for certification of an energy facility proposed for
25 construction, modification, or expansion for the purpose of providing
26 generating facilities that meet the requirements of RCW 80.80.040 and
27 are located in a county with a coal-fired electric ~~((generating~~
28 ~~[generation]))~~ generation facility subject to RCW 80.80.040(3)(c), the
29 council shall expedite the processing of the application pursuant to
30 RCW 80.50.075 and shall ~~((report its recommendations to the governor))~~
31 issue a site certification or reject the site certification application
32 within one hundred eighty days of receipt by the council of such an
33 application, or a later time as is mutually agreed by the council and
34 the applicant.

35 ~~((2) If the council recommends approval of an application for
36 certification, it shall also submit a draft certification agreement~~

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

9 (3)(a) Within sixty days of receipt of the council's report the
10 governor shall take one of the following actions:

11 (i) Approve the application and execute the draft certification
12 agreement; or

13 (ii) Reject the application; or

14 (iii) Direct the council to reconsider certain aspects of the draft
15 certification agreement.

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

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

31 **Sec. 15.** RCW 80.50.105 and 1991 c 200 s 1112 are each amended to
32 read as follows:

33 ((In making its recommendations to the governor under this chapter
34 regarding)) For an application that includes transmission pipeline
35 facilities for petroleum products, the council shall give appropriate
36 weight to city or county facility siting standards adopted for the
37 protection of sole source aquifers.

1 **Sec. 16.** RCW 80.50.110 and 1975-'76 2nd ex.s. c 108 s 37 are each
2 amended to read as follows:

3 (1) If any provision of this chapter is in conflict with any other
4 provision, limitation, or restriction which is now in effect under any
5 other law of this state, or any rule or regulation promulgated
6 thereunder, this chapter shall govern and control and such other law or
7 rule or regulation promulgated thereunder shall be deemed superseded
8 for the purposes of this chapter.

9 (2) The state hereby preempts the regulation and certification of
10 the location, construction, and operational conditions of certification
11 of the energy facilities included under RCW 80.50.060 as now or
12 hereafter amended.

13 (3) For an energy facility interconnecting to an electric utility's
14 distribution system, the application of standards and terms of a site
15 certification by the council under this chapter only applies to the
16 part of the facility within the geographic boundaries of the proposed
17 facility and not to the electrical interconnection of a facility to the
18 electric utility's distribution system, unless the council is required
19 otherwise by another authority created outside this act to review and
20 approve the interconnection of an energy facility to an electric
21 utility's distribution system.

22 **Sec. 17.** RCW 80.50.120 and 1977 ex.s. c 371 s 10 are each amended
23 to read as follows:

24 Except as provided in RCW 80.50.110:

25 (1) Subject to the conditions set forth therein any certification
26 shall bind the state and each of its departments, agencies, divisions,
27 bureaus, commissions, boards, and political subdivisions, whether a
28 member of the council or not, as to the approval of the site and the
29 construction and operation of the proposed energy facility.

30 (2) The certification shall authorize the person named therein to
31 construct and operate the proposed energy facility subject only to the
32 conditions set forth in such certification.

33 (3) The issuance of a certification shall be in lieu of any permit,
34 certificate or similar document required by any department, agency,
35 division, bureau, commission, board, or political subdivision of this
36 state, whether a member of the council or not.

1 NEW SECTION. **Sec. 18.** A new section is added to chapter 80.50 RCW
2 to read as follows:

3 A city and county that has approved an energy facility through a
4 local permitting process shall submit to the council within thirty days
5 of the issuance of a permit a copy of the permit and any conditions of
6 approval.

7 NEW SECTION. **Sec. 19.** A new section is added to chapter 43.21C
8 RCW to read as follows:

9 For the purposes of this chapter, the energy facility site
10 evaluation council may choose to establish timelines related to the
11 siting of energy facilities under chapter 80.50 RCW that are shorter
12 than those required by this chapter.

13 NEW SECTION. **Sec. 20.** The following acts or parts of acts are
14 each repealed:

15 (1) RCW 80.50.080 (Counsel for the environment) and 1977 ex.s. c
16 371 s 6 & 1970 ex.s. c 45 s 8;

17 (2) RCW 80.50.090 (Public hearings) and 2006 c 205 s 3, 2006 c 196
18 s 6, 2001 c 214 s 7, 1989 c 175 s 173, & 1970 ex.s. c 45 s 9; and

19 (3) RCW 80.50.320 (Governor to evaluate council efficiency, make
20 recommendations) and 2001 c 214 s 8.

--- END ---