S-3948.1

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**SUBSTITUTE SENATE BILL 5678**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senate Environment, Energy & Technology (originally sponsored by Senators Short, Carlyle, Frockt, and Mullet)

AN ACT Relating to energy transformation, nonemitting electric generation, and renewable resource project analysis and declaratory orders; and adding new sections to chapter 19.405 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 19.405 RCW to read as follows:

(1) An investor-owned utility may petition the commission for a declaratory order pursuant to RCW 34.05.240 to determine whether a proposed energy transformation project, nonemitting electric generation project, or renewable resource project meets the requirements of RCW 19.405.040 (1) through (3) and 19.405.050 (1) and (5).

(2) The petition for a declaratory order must be in writing and must include information that accurately describes the proposed project.

(3) A project that the commission has determined under this section to comply with the requirements of RCW 19.405.040 (1) through (3) or 19.405.050 (1) and (5) may be identified in an investor-owned utility's clean energy action plan under RCW 19.280.030(2) and the utility's clean energy implementation plan under RCW 19.405.060(1).

(4) If an investor-owned utility seeks approval of a resource or project in a clean energy implementation plan under RCW 19.405.060, or in a proceeding to set rates, that the commission has previously determined under this section complies with the requirements of RCW 19.405.040 (1) through (3) or 19.405.050 (1) and (5) and the resource or project deviates substantively from the one described in the commission's determination in a manner that affects the resource's or project's potential compliance with RCW 19.405.040 (1) through (3) or 19.405.050 (1) and (5), the commission may reevaluate the resource or project to determine if it complies.

NEW SECTION. **Sec.**  A new section is added to chapter 19.405 RCW to read as follows:

(1) The commission may require an applicant to pay an application fee for a declaratory order requested under section 1 of this act. The amount of the fee must be set by the commission to solely cover the cost of reviewing the project and preparing a declaratory order, including a legal analysis.

(2) Nothing in section 1 of this act preempts the authority of the commission from making a determination, independent of the processes under section 1 of this act, on whether a proposed energy transformation project, nonemitting electric generation project, or renewable resource project, under RCW 19.405.040 and 19.405.050, meets the planning and portfolio requirements of an investor-owned utility's clean energy implementation plan under this chapter.

(3) A declaratory order issued under section 1 of this act does not by itself determine the prudency associated with an energy transformation project, nonemitting electric generation project, or renewable resource project.

(4) Nothing in section 1 of this act may be construed to require an investor-owned utility to seek an order declaring whether the proposed resource or project complies with the requirements of RCW 19.405.040 (1) through (3) or 19.405.050 (1) and (5).

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