

2SHB 1812 - H AMD 1016

By Representative Fitzgibbon

ADOPTED AS AMENDED 02/13/2022

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 80.50.010 and 2001 c 214 s 1 are each amended to
4 read as follows:

5 The legislature finds that the present and predicted growth in
6 energy demands in the state of Washington requires (~~the development~~
7 ~~of~~) a procedure for the selection and (~~utilization~~) use of sites
8 for energy facilities and the identification of a state position with
9 respect to each proposed site. The legislature recognizes that the
10 selection of sites will have a significant impact upon the welfare of
11 the population, the location and growth of industry and the use of
12 the natural resources of the state.

13 It is the policy of the state of Washington to reduce dependence
14 on fossil fuels by recognizing the need for clean energy in order to
15 strengthen the state's economy, meet the state's greenhouse gas
16 reduction obligations, and mitigate the significant near-term and
17 long-term impacts from climate change while conducting a public
18 process that is transparent and inclusive to all with particular
19 attention to overburdened communities.

20 The legislature finds that the in-state manufacture of industrial
21 products that enable a clean energy economy is critical to advancing
22 the state's objectives in providing affordable electricity, promoting
23 renewable energy, strengthening the state's economy, and reducing
24 greenhouse gas emissions. Therefore, the legislature intends to
25 provide the council with additional authority regarding the siting of
26 clean energy product manufacturing facilities.

27 It is the policy of the state of Washington to recognize the
28 pressing need for increased energy facilities, and to ensure through
29 available and reasonable methods(~~r~~) that the location and operation
30 of (~~such~~) all energy facilities and certain clean energy product
31 manufacturing facilities will produce minimal adverse effects on the

1 environment, ecology of the land and its wildlife, and the ecology of
2 state waters and their aquatic life.

3 It is the intent to seek courses of action that will balance the
4 increasing demands for energy facility location and operation in
5 conjunction with the broad interests of the public. In addition, it
6 is the intent of the legislature to streamline application review for
7 energy facilities to meet the state's energy goals and to authorize
8 applications for review of certain clean energy product manufacturing
9 facilities to be considered under the provisions of this chapter.

10 Such action will be based on these premises:

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

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

21 (3) To encourage the development and integration of clean energy
22 sources.

23 (4) To provide abundant clean energy at reasonable cost.

24 ~~((4))~~ (5) To avoid costs of complete site restoration and
25 demolition of improvements and infrastructure at unfinished nuclear
26 energy sites, and to use unfinished nuclear energy facilities for
27 public uses, including economic development, under the regulatory and
28 management control of local governments and port districts.

29 ~~((5))~~ (6) To avoid costly duplication in the siting process and
30 ensure that decisions are made timely and without unnecessary delay
31 while also encouraging meaningful public comment and participation in
32 energy facility decisions.

33 **Sec. 2.** RCW 80.50.020 and 2021 c 317 s 17 are each amended to
34 read as follows:

35 The definitions in this section apply throughout this chapter
36 unless the context clearly requires otherwise.

37 (1) "Alternative energy resource" includes energy facilities of
38 the following types: (a) Wind; (b) solar energy; (c) geothermal
39 energy; (d) ~~((landfill))~~ renewable natural gas; (e) wave or tidal

1 action; ~~((e))~~ (f) biomass energy based on solid organic fuels from
2 wood, forest, or field residues, or dedicated energy crops that do
3 not include wood pieces that have been treated with chemical
4 preservatives such as creosote, pentachlorophenol, or copper-chrome-
5 arsenic; or (g) renewable or green electrolytic hydrogen.

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

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

11 (4) "Associated facilities" means storage, transmission,
12 handling, or other related and supporting facilities connecting an
13 energy plant with the existing energy supply, processing, or
14 distribution system, including, but not limited to, communications,
15 controls, mobilizing or maintenance equipment, instrumentation, and
16 other types of ancillary transmission equipment, off-line storage or
17 venting required for efficient operation or safety of the
18 transmission system and overhead, and surface or subsurface lines of
19 physical access for the inspection, maintenance, and safe operations
20 of the transmission facility and new transmission lines constructed
21 to operate at nominal voltages of at least 115,000 volts to connect a
22 thermal power plant or alternative energy facilities to the northwest
23 power grid. However, common carrier railroads or motor vehicles shall
24 not be included.

25 (5) "Biofuel" means a liquid or gaseous fuel derived from organic
26 matter (~~((intended for use as a transportation fuel))~~) including, but
27 not limited to, biodiesel, renewable diesel, ethanol, renewable
28 natural gas, and renewable propane.

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

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

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

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

4 (10) "Electrical transmission facilities" means electrical power
5 lines and related equipment.

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

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

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

16 (12) "Energy plant" means the following facilities together with
17 their associated facilities:

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

20 (b) Any nonnuclear stationary thermal power plant with generating
21 capacity of three hundred fifty thousand kilowatts or more, measured
22 using maximum continuous electric generating capacity, less minimum
23 auxiliary load, at average ambient temperature and pressure, and
24 floating thermal power plants of one hundred thousand kilowatts or
25 more suspended on the surface of water by means of a barge, vessel,
26 or other floating platform;

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

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

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

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

5 (g) Facilities capable of producing more than one thousand five
6 hundred barrels per day of refined biofuel but less than twenty-five
7 thousand barrels of refined biofuel.

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

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

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

21 (16) "Preapplicant" means a person considering applying for a
22 site certificate agreement for any (~~transmission~~) facility.

23 (17) "Preapplication process" means the process which is
24 initiated by written correspondence from the preapplicant to the
25 council, and includes the process adopted by the council for
26 consulting with the preapplicant and with federally recognized
27 tribes, cities, towns, and counties prior to accepting applications
28 for (~~all transmission facilities~~) any facility.

29 (18) "Secretary" means the secretary of the United States
30 department of energy.

31 (19) "Site" means any proposed or approved location of an energy
32 facility, alternative energy resource, clean energy product
33 manufacturing facility, or electrical transmission facility.

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

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

39 (a) Crude or refined petroleum or liquid petroleum product
40 transmission pipeline of the following dimensions: A pipeline larger

1 than six inches minimum inside diameter between valves for the
2 transmission of these products with a total length of at least
3 fifteen miles;

4 (b) Natural gas, synthetic fuel gas, or liquefied petroleum gas
5 transmission pipeline of the following dimensions: A pipeline larger
6 than fourteen inches minimum inside diameter between valves, for the
7 transmission of these products, with a total length of at least
8 fifteen miles for the purpose of delivering gas to a distribution
9 facility, except an interstate natural gas pipeline regulated by the
10 United States federal (~~power~~) energy regulatory commission.

11 (22) "Zoning ordinance" means an ordinance of a unit of local
12 government regulating the use of land and adopted pursuant to chapter
13 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state
14 Constitution, or as otherwise designated by chapter 325, Laws of
15 2007.

16 (23) "Clean energy product manufacturing facility" means a
17 facility that exclusively or primarily manufactures the following
18 products or components primarily used by such products:

19 (a) Vehicles, vessels, and other modes of transportation that
20 emit no exhaust gas from the onboard source of power, other than
21 water vapor;

22 (b) Charging and fueling infrastructure for electric, hydrogen,
23 or other types of vehicles that emit no exhaust gas from the onboard
24 source of power, other than water vapor;

25 (c) Renewable or green electrolytic hydrogen, including preparing
26 renewable or green electrolytic hydrogen for distribution as an
27 energy carrier or manufacturing feedstock;

28 (d) Equipment and products used to produce energy from
29 alternative energy resources; and

30 (e) Equipment and products used at storage facilities.

31 (24) "Director" means the director of the energy facility site
32 evaluation council appointed by the chair of the council in
33 accordance with section 4 of this act.

34 (25)(a) "Green electrolytic hydrogen" means hydrogen produced
35 through electrolysis.

36 (b) "Green electrolytic hydrogen" does not include hydrogen
37 manufactured using steam reforming or any other conversion technology
38 that produces hydrogen from a fossil fuel feedstock.

1 (26) "Renewable hydrogen" means hydrogen produced using renewable
2 resources both as the source for the hydrogen and the source for the
3 energy input into the production process.

4 (27) "Renewable natural gas" means a gas consisting largely of
5 methane and other hydrocarbons derived from the decomposition of
6 organic material in landfills, wastewater treatment facilities, and
7 anaerobic digesters.

8 (28) "Renewable resource" means: (a) Water; (b) wind; (c) solar
9 energy; (d) geothermal energy; (e) renewable natural gas; (f)
10 renewable hydrogen; (g) wave, ocean, or tidal power; (h) biodiesel
11 fuel that is not derived from crops raised on land cleared from old
12 growth or first growth forests; or (i) biomass energy.

13 (29) "Storage facility" means a plant that: (a) Accepts
14 electricity as an energy source and uses a chemical, thermal,
15 mechanical, or other process to store energy for subsequent delivery
16 or consumption in the form of electricity; or (b) stores renewable
17 hydrogen or green electrolytic hydrogen for subsequent delivery or
18 consumption.

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

21 (1) ~~((There is created and established the))~~ The energy facility
22 site evaluation council is created and established.

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

34 ~~((b) The chair or a designee shall execute all official~~
35 ~~documents, contracts, and other materials on behalf of the council.~~
36 ~~The Washington utilities and transportation commission shall provide~~
37 ~~all administrative and staff support for the council. The commission~~
38 ~~has supervisory authority over the staff of the council and shall~~
39 ~~employ such personnel as are necessary to implement this chapter. Not~~

1 ~~more than three such employees may be exempt from chapter 41.06 RCW.~~
2 ~~The council shall otherwise retain its independence in exercising its~~
3 ~~powers, functions, and duties and its supervisory control over~~
4 ~~nonadministrative staff support. Membership, powers, functions, and~~
5 ~~duties of the Washington state utilities and transportation~~
6 ~~commission and the council shall otherwise remain as provided by~~
7 ~~law.))~~

8 (3) (a) The council shall consist of the ~~((directors,~~
9 ~~administrators, or their designees, of the following departments,~~
10 ~~agencies, commissions, and committees or their statutory successors:~~

11 ~~(i) Department of ecology;~~

12 ~~(ii) Department of fish and wildlife;~~

13 ~~(iii) Department of commerce;~~

14 ~~(iv) Utilities and transportation commission; and~~

15 ~~(v) Department of natural resources)) chair of the council and:~~

16 (i) The director of the department of ecology or the director's
17 designee;

18 (ii) The director of the department of fish and wildlife or the
19 director's designee;

20 (iii) The director of the department of commerce or the
21 director's designee;

22 (iv) The chair of the utilities and transportation commission or
23 the chair's designee; and

24 (v) The commissioner of public lands or the commissioner's
25 designee.

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

31 (i) Department of agriculture;

32 (ii) Department of health;

33 (iii) Military department; and

34 (iv) Department of transportation.

35 ~~((c) Council membership is discretionary for agencies that~~
36 ~~choose to participate under (b) of this subsection only for~~
37 ~~applications that are filed with the council on or after May 8, 2001.~~
38 ~~For applications filed before May 8, 2001, council membership is~~
39 ~~mandatory for those agencies listed in (b) of this subsection.))~~

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

8 (5) The city legislative authority of every city within whose
9 corporate limits an energy facility is proposed to be located shall
10 appoint a member or designee as a voting member to the council. The
11 member or designee so appointed shall sit with the council only at
12 such times as the council considers the proposed site for the city
13 which he or she represents, and such member or designee shall serve
14 until there has been a final acceptance or rejection of the proposed
15 site.

16 (6) For any port district wherein an application for a proposed
17 port facility is filed subject to this chapter, the port district
18 shall appoint a member or designee as a nonvoting member to the
19 council. The member or designee so appointed shall sit with the
20 council only at such times as the council considers the proposed site
21 for the port district which he or she represents, and such member or
22 designee shall serve until there has been a final acceptance or
23 rejection of the proposed site. The provisions of this subsection
24 shall not apply if the port district is the applicant, either singly
25 or in partnership or association with any other person.

26 (7) A quorum of the council consists of a majority of members
27 appointed for business to be conducted.

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

30 (1) The chair of the council or the chair's designee shall
31 execute all official documents, contracts, and other materials on
32 behalf of the council.

33 (2) The chair of the council shall appoint a director to oversee
34 the operations of the council and carry out the duties of this
35 chapter as delegated by the chair. The chair of the council may
36 delegate to the director its status as appointing authority for the
37 council.

38 (3) The director shall employ such administrative and
39 professional personnel as may be necessary to perform the

1 administrative work of the council and implement this chapter. The
2 director has supervisory authority over all staff of the council. Not
3 more than four employees may be exempt from chapter 41.06 RCW.

4 **Sec. 5.** RCW 80.50.040 and 2001 c 214 s 6 are each amended to
5 read as follows:

6 The council shall have the following powers:

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

11 (2) To develop and apply environmental and ecological guidelines
12 in relation to the type, design, location, construction, ~~((and))~~
13 initial operational conditions of certification, and ongoing
14 regulatory oversight under the regulatory authority established in
15 this chapter of energy facilities subject to this chapter;

16 (3) To establish rules of practice for the conduct of public
17 hearings pursuant to the provisions of the Administrative Procedure
18 Act, as found in chapter 34.05 RCW;

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

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

23 (6) To ~~((make and contract, when applicable, for independent~~
24 ~~studies of sites proposed by the applicant))~~ enter into contracts to
25 carry out the provisions of this chapter;

26 (7) To conduct hearings on the proposed location and operational
27 conditions of the energy facilities under the regulatory authority
28 established in this chapter;

29 (8) To prepare written reports to the governor which shall
30 include: (a) A statement indicating whether the application is in
31 compliance with the council's guidelines, (b) criteria specific to
32 the site and transmission line routing, (c) a council recommendation
33 as to the disposition of the application, and (d) a draft
34 certification agreement when the council recommends approval of the
35 application;

36 (9) To prescribe the means for monitoring of the effects arising
37 from the construction and the operation of energy facilities to
38 assure continued compliance with terms of certification and/or
39 permits issued by the council pursuant to chapter 90.48 RCW or

1 subsection (12) of this section: PROVIDED, That any on-site
2 inspection required by the council shall be performed by other state
3 agencies pursuant to interagency agreement: PROVIDED FURTHER, That
4 the council may retain authority for determining compliance relative
5 to monitoring;

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

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

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

25 (13) To serve as an interagency coordinating body for energy-
26 related issues.

27 **Sec. 6.** RCW 80.50.060 and 2021 c 317 s 18 are each amended to
28 read as follows:

29 (1) (~~Except for biofuel refineries specified in RCW~~
30 ~~80.50.020(12)(g), the~~) (a) The provisions of this chapter apply to
31 the construction of energy facilities which includes the new
32 construction of energy facilities and the reconstruction or
33 enlargement of existing energy facilities where the net increase in
34 physical capacity or dimensions resulting from such reconstruction or
35 enlargement meets or exceeds those capacities or dimensions set forth
36 in RCW 80.50.020 (12) and (21). No construction or reconstruction of
37 such energy facilities may be undertaken, except as otherwise
38 provided in this chapter, (~~after July 15, 1977,~~) without first
39 obtaining certification in the manner provided in this chapter.

1 ~~((2) The provisions of this chapter apply to the construction,~~
2 ~~reconstruction, or enlargement of a new or existing biofuel refinery~~
3 ~~specified in RCW 80.50.020(12)(g) or a new or existing energy~~
4 ~~facility that exclusively uses alternative energy resources and~~
5 ~~chooses to receive certification under this chapter, regardless of~~
6 ~~the generating capacity of the project.~~

7 ~~(3))~~ (b) If applicants proposing the following types of
8 facilities choose to receive certification under this chapter, the
9 provisions of this chapter apply to the construction, reconstruction,
10 or enlargement of these new or existing facilities:

11 (i) Biofuel refineries specified in RCW 80.50.020(12)(g);

12 (ii) Alternative energy resource facilities;

13 (iii) Electrical transmission facilities: (A) Of a nominal
14 voltage of at least 150,000 volts; and (B) located in more than one
15 jurisdiction that has promulgated land use plans or zoning
16 ordinances;

17 (iv) Clean energy product manufacturing facilities; and

18 (v) Storage facilities.

19 (c) All of the council's powers with regard to energy facilities
20 apply to all of the facilities in (b) of this subsection and these
21 facilities are subject to all provisions of this chapter that apply
22 to an energy facility.

23 (2)(a) The provisions of this chapter must apply to the
24 construction, reconstruction, or modification of electrical
25 transmission facilities when(~~(~~

26 ~~(i) The))~~ the facilities are located in a national interest
27 electric transmission corridor as specified in RCW 80.50.045(~~(~~

28 ~~(ii) An applicant chooses to receive certification under this~~
29 ~~chapter, and the facilities are:~~ (A) Of a nominal voltage of at least
30 one hundred fifteen thousand volts and are located in a completely
31 new corridor, except for the terminus of the new facility or
32 interconnection of the new facility with the existing grid, and the
33 corridor is not otherwise used for electrical transmission
34 facilities; and (B) located in more than one jurisdiction that has
35 promulgated land use plans or zoning ordinances; or

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

1 (b) For the purposes of this subsection, (~~("modify")~~)
2 "modification" means a significant change to an electrical
3 transmission facility and does not include the following: (i) Minor
4 improvements such as the replacement of existing transmission line
5 facilities or supporting structures with equivalent facilities or
6 structures; (ii) the relocation of existing electrical transmission
7 line facilities; (iii) the conversion of existing overhead lines to
8 underground; or (iv) the placing of new or additional conductors,
9 supporting structures, insulators, or their accessories on or
10 replacement of supporting structures already built.

11 (~~((4))~~) (3) The provisions of this chapter shall not apply to
12 normal maintenance and repairs which do not increase the capacity or
13 dimensions beyond those set forth in RCW 80.50.020 (12) and (21).

14 (~~((5))~~) (4) Applications for certification of energy facilities
15 made prior to July 15, 1977, shall continue to be governed by the
16 applicable provisions of law in effect on the day immediately
17 preceding July 15, 1977, with the exceptions of RCW (~~(80.50.190 and)~~)
18 80.50.071 which shall apply to such prior applications and to site
19 certifications prospectively from July 15, 1977.

20 (~~((6))~~) (5) Applications for certification shall be upon forms
21 prescribed by the council and shall be supported by such information
22 and technical studies as the council may require.

23 (6) Upon receipt of an application for certification under this
24 chapter, the chair of the council shall notify:

25 (a) The appropriate county legislative authority or authorities
26 where the proposed facility is located;

27 (b) The appropriate city legislative authority or authorities
28 where the proposed facility is located;

29 (c) The department of archaeology and historic preservation; and

30 (d) The appropriate federally recognized tribal governments that
31 may be affected by the proposed facility.

32 (7) The council must work with local governments where a project
33 is proposed to be sited in order to provide for meaningful
34 participation and input during siting review and compliance
35 monitoring.

36 (8) The council must consult with all federally recognized tribes
37 that possess resources, rights, or interests reserved or protected by
38 federal treaty, statute, or executive order in the area where an
39 energy facility is proposed to be located to provide early and
40 meaningful participation and input during siting review and

1 compliance monitoring. The chair and designated staff must offer to
2 conduct government-to-government consultation to address issues of
3 concern raised by such a tribe. The goal of the consultation process
4 is to identify tribal resources or rights potentially affected by the
5 proposed energy facility and to seek ways to avoid, minimize, or
6 mitigate any adverse effects on tribal resources or rights. The chair
7 must provide regular updates on the consultation to the council
8 throughout the application review process. The report from the
9 council to the governor required in RCW 80.50.100 must include a
10 summary of the government-to-government consultation process that
11 complies with RCW 42.56.300, including the issues and proposed
12 resolutions.

13 (9) The department of archaeology and historic preservation shall
14 coordinate with the affected federally recognized tribes and the
15 applicant in order to assess potential effects to tribal cultural
16 resources, archaeological sites, and sacred sites.

17 NEW SECTION. Sec. 7. A new section is added to chapter 80.50
18 RCW to read as follows:

19 (1) A person proposing to construct, reconstruct, or enlarge a
20 clean energy product manufacturing facility may choose to receive
21 certification under this chapter.

22 (2) All of the council's powers with regard to energy facilities
23 apply to clean energy product manufacturing facilities, and such a
24 facility is subject to all provisions of this chapter that apply to
25 an energy facility.

26 **Sec. 8.** RCW 80.50.071 and 2016 sp.s. c 10 s 1 are each amended
27 to read as follows:

28 (1) The council shall receive all applications for energy
29 facility site certification. Each applicant shall pay actual costs
30 incurred by the council (~~(and the utilities and transportation~~
31 ~~commission)) in processing an application.~~

32 (a) Each applicant shall, at the time of application submission,
33 (~~(deposit with the utilities and transportation commission))~~ pay to
34 the council for deposit into the energy facility site evaluation
35 council account created in section 15 of this act an amount up to
36 fifty thousand dollars, or such greater amount as specified by the
37 council after consultation with the applicant. The council (~~(and the~~
38 ~~utilities and transportation commission)) shall charge costs against~~

1 the deposit if the applicant withdraws its application and has not
2 reimbursed (~~the commission, on behalf of~~) the council(~~(T)~~) for all
3 actual expenditures incurred in considering the application.

4 (b) The council may commission its own independent consultant
5 study to measure the consequences of the proposed energy facility on
6 the environment or any matter that it deems essential to an adequate
7 appraisal of the site. The council(~~(T after consultation with the~~
8 ~~utilities and transportation commission)~~) shall provide an estimate
9 of the cost of the study to the applicant and consider applicant
10 comments.

11 (c) In addition to the deposit required under (a) of this
12 subsection, applicants must reimburse (~~the utilities and~~
13 ~~transportation commission, on behalf of~~) the council(~~(T)~~) for actual
14 expenditures that arise in considering the application, including the
15 cost of any independent consultant study. The (~~utilities and~~
16 ~~transportation commission, on behalf of the~~) council(~~(T)~~) shall
17 submit to each applicant an invoice of actual expenditures made
18 during the preceding calendar quarter in sufficient detail to explain
19 the expenditures. The applicant shall pay the (~~utilities and~~
20 ~~transportation commission~~) council the amount of the invoice by the
21 due date.

22 (2) Each certificate holder shall pay (~~to the utilities and~~
23 ~~transportation commission~~) the actual costs incurred by the council
24 for inspection and determination of compliance by the certificate
25 holder with the terms of the certification relative to monitoring the
26 effects of construction, operation, and site restoration of the
27 facility.

28 (a) Each certificate holder shall, within thirty days of
29 execution of the site certification agreement, (~~deposit with the~~
30 ~~utilities and transportation commission~~) pay to the council for
31 deposit into the energy facility site evaluation council account
32 created in section 15 of this act an amount up to fifty thousand
33 dollars, or such greater amount as specified by the council after
34 consultation with the certificate holder. The council (~~and the~~
35 ~~utilities and transportation commission~~) shall charge costs against
36 the deposit if the certificate holder ceases operations and has not
37 reimbursed (~~the commission, on behalf of~~) the council(~~(T)~~) for all
38 actual expenditures incurred in conducting inspections and
39 determining compliance with the terms of the certification.

1 (b) In addition to the deposit required under (a) of this
2 subsection, certificate holders must reimburse (~~the utilities and~~
3 ~~transportation commission, on behalf of~~) the council(~~(,)~~) for actual
4 expenditures that arise in administering this chapter and determining
5 compliance. The council(~~(, after consultation with the utilities and~~
6 ~~transportation commission,)~~) shall submit to each certificate holder
7 an invoice of the expenditures actually made during the preceding
8 calendar quarter in sufficient detail to explain the expenditures.
9 The certificate holder shall pay (~~the utilities and transportation~~
10 ~~commission~~) the amount of the invoice by the due date.

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

17 (4) All payments required of the applicant or certificate holder
18 under this section are to be made to the (~~utilities and~~
19 ~~transportation commission who shall make payments as instructed by~~
20 ~~the council from the funds submitted~~) council for deposit into the
21 energy facility site evaluation council account created in section 15
22 of this act. All such funds shall be subject to state auditing
23 procedures. Any unexpended portions of the deposit shall be returned
24 to the applicant within sixty days following the conclusion of the
25 application process or to the certificate holder within sixty days
26 after a determination by the council that the certificate is no
27 longer required and there is no continuing need for compliance with
28 its terms. For purposes of this section, "conclusion of the
29 application process" means after the governor's decision granting or
30 denying a certificate and the expiration of any opportunities for
31 judicial review.

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

39 (i) A description of the proposed energy plant, clean energy
40 product manufacturing facility, or alternative energy resource;

1 (ii) The location of the site;

2 (iii) The placement of the energy plant or alternative energy
3 resource on the site;

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

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

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

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

19 **Sec. 9.** RCW 80.50.090 and 2006 c 205 s 3 and 2006 c 196 s 6 are
20 each reenacted and amended to read as follows:

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

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

35 (3) (a) After the submission of an environmental checklist and
36 prior to issuing a threshold determination that a facility is likely
37 to cause a significant adverse environmental impact under chapter
38 43.21C RCW, the director must notify the project applicant and
39 explain in writing the basis for its anticipated determination of

1 significance. Prior to issuing the threshold determination of
2 significance, the director must give the project applicant the option
3 of withdrawing and revising its application and the associated
4 environmental checklist to clarify or make changes to features of the
5 proposal that are designed to mitigate the impacts that were the
6 basis of the director's anticipated determination of significance.
7 The director shall make the threshold determination based upon the
8 changed or clarified proposal following the applicant's submittal.
9 The director must provide an opportunity for public comment on a
10 project for which a project applicant has withdrawn and revised the
11 application and environmental checklist and subsequently received a
12 threshold determination of nonsignificance or mitigated determination
13 of nonsignificance.

14 (b) The notification required under (a) of this subsection is not
15 an official determination by the director and is not subject to
16 appeal under chapter 43.21C RCW.

17 ((3)) (4) Prior to the issuance of a council recommendation to
18 the governor under RCW 80.50.100 a public hearing, conducted as an
19 adjudicative proceeding under chapter 34.05 RCW, the administrative
20 procedure act, shall be held.

21 (a) At such public hearing any person shall be entitled to be
22 heard in support of or in opposition to the application for
23 certification by raising one or more specific issues, provided that
24 the person has raised the issue or issues in writing with specificity
25 during the application review process or during the public comment
26 period that will be held prior to the start of the adjudicative
27 hearing.

28 (b) If the environmental impact of the proposed facility in an
29 application for certification is not significant or will be mitigated
30 to a nonsignificant level under RCW 43.21C.031, the council may limit
31 the topic of the public hearing conducted as an adjudicative
32 proceeding under this section to whether any land use plans or zoning
33 ordinances with which the proposed site is determined to be
34 inconsistent under subsection (2) of this section should be
35 preempted.

36 (5) After expedited processing is granted under RCW 80.50.075,
37 the council must hold a public meeting to take comments on the
38 proposed application prior to issuing a council recommendation to the
39 governor.

1 (~~(4)~~) (6) Additional public hearings shall be held as deemed
2 appropriate by the council in the exercise of its functions under
3 this chapter.

4 **Sec. 10.** RCW 80.50.100 and 2011 c 180 s 109 are each amended to
5 read as follows:

6 (1)(a) The council shall report to the governor its
7 recommendations as to the approval or rejection of an application for
8 certification within twelve months of receipt by the council of
9 (~~such~~) an application deemed complete by the director, or such
10 later time as is mutually agreed by the council and the applicant.

11 (b) The council shall review and consider comments received
12 during the application process in making its recommendation.

13 (c) In the case of an application filed prior to December 31,
14 2025, for certification of an energy facility proposed for
15 construction, modification, or expansion for the purpose of providing
16 generating facilities that meet the requirements of RCW 80.80.040 and
17 are located in a county with a coal-fired electric (~~generating~~
18 ~~[generation]~~) generation facility subject to RCW 80.80.040(3)(c),
19 the council shall expedite the processing of the application pursuant
20 to RCW 80.50.075 and shall report its recommendations to the governor
21 within one hundred eighty days of receipt by the council of such an
22 application, or a later time as is mutually agreed by the council and
23 the applicant.

24 (2) If the council recommends approval of an application for
25 certification, it shall also submit a draft certification agreement
26 with the report. The council shall include conditions in the draft
27 certification agreement to implement the provisions of this
28 chapter(~~(7)~~) including, but not limited to, conditions to protect
29 state or local governmental or community interests affected by the
30 construction or operation of the (~~energy~~) facility, and conditions
31 designed to recognize the purpose of laws or ordinances, or rules or
32 regulations promulgated thereunder, that are preempted or superseded
33 pursuant to RCW 80.50.110 as now or hereafter amended.

34 (3)(a) Within (~~sixty~~) 60 days of receipt of the council's
35 report the governor shall take one of the following actions:

36 (i) Approve the application and execute the draft certification
37 agreement; or

38 (ii) Reject the application; or

1 (iii) Direct the council to reconsider certain aspects of the
2 draft certification agreement.

3 (b) The council shall reconsider such aspects of the draft
4 certification agreement by reviewing the existing record of the
5 application or, as necessary, by reopening the adjudicative
6 proceeding for the purposes of receiving additional evidence. Such
7 reconsideration shall be conducted expeditiously. The council shall
8 resubmit the draft certification to the governor incorporating any
9 amendments deemed necessary upon reconsideration. Within ~~((sixty))~~ 60
10 days of receipt of such draft certification agreement, the governor
11 shall either approve the application and execute the certification
12 agreement or reject the application. The certification agreement
13 shall be binding upon execution by the governor and the applicant.

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

18 **Sec. 11.** RCW 80.50.175 and 1983 c 3 s 205 are each amended to
19 read as follows:

20 (1) In addition to all other powers conferred on the council
21 under this chapter, the council shall have the powers set forth in
22 this section.

23 ~~((The council, upon request of any potential applicant, is
24 authorized, as provided in this section, to conduct a preliminary
25 study of any potential site prior to receipt of an application for
26 site certification. A fee of ten thousand dollars for each potential
27 site, to be applied toward the cost of any study agreed upon pursuant
28 to subsection (3) of this section, shall accompany the request and
29 shall be a condition precedent to any action on the request by the
30 council.~~

31 ~~(3) After receiving a request to study a potential site, the
32 council shall commission its own independent consultant to study
33 matters relative to the potential site. The study shall include, but
34 need not be limited to, the preparation and analysis of environmental
35 impact information for the proposed potential site and any other
36 matter the council and the potential applicant deem essential to an
37 adequate appraisal of the potential site. In conducting the study,
38 the council is authorized to cooperate and work jointly with the
39 county or counties in which the potential site is located, any~~

1 federal, state, or local governmental agency that might be requested
2 to comment upon the potential site, and any municipal or public
3 corporation having an interest in the matter. The full cost of the
4 study shall be paid by the potential applicant: PROVIDED, That such
5 costs exceeding a total of ten thousand dollars shall be payable
6 subject to the potential applicant giving prior approval to such
7 excess amount.

8 ~~(4) Any study prepared by the council pursuant to subsection (3)~~
9 ~~of this section may be used in place of the "detailed statement"~~
10 ~~required by RCW 43.21C.030(2)(c) by any branch of government except~~
11 ~~the council created pursuant to chapter 80.50 RCW.~~

12 ~~(5) All payments required of the potential applicant under this~~
13 ~~section are to be made to the state treasurer, who in turn shall pay~~
14 ~~the consultant as instructed by the council. All such funds shall be~~
15 ~~subject to state auditing procedures. Any unexpended portions thereof~~
16 ~~shall be returned to the potential applicant.~~

17 ~~(6) Nothing in this section shall change the requirements for an~~
18 ~~application for site certification or the requirement of payment of a~~
19 ~~fee as provided in RCW 80.50.071, or change the time for disposition~~
20 ~~of an application for certification as provided in RCW 80.50.100.~~

21 ~~(7) Nothing in this section shall be construed as preventing a~~
22 ~~city or county from requiring any information it deems appropriate to~~
23 ~~make a decision approving a particular location.))~~ (a) The council,
24 upon agreement with any potential applicant, is authorized as
25 provided in this section to conduct a preliminary study of any
26 potential project prior to receipt of an application for site
27 certification. This preliminary study must be completed before any
28 environmental review or process under RCW 43.21C.031 is initiated. A
29 fee of \$10,000 for each potential project, to be applied toward the
30 cost of any study agreed upon pursuant to (b) of this subsection,
31 must accompany the agreement and is a condition precedent to any
32 action on the agreement by the council.

33 (b) Upon agreement with the potential applicant, the council may
34 commission its own independent consultant to study matters relative
35 to the potential project. In conducting the study, the council is
36 authorized to cooperate and work jointly with the county or counties
37 in which the potential project is located, any federal, state, local,
38 or tribal governmental agency that might be requested to comment on
39 the potential project, and any municipal or public corporation having
40 an interest in the matter. The full cost of the study must be paid by

1 the potential applicant. However, costs exceeding a total of \$10,000
2 are payable subject to the potential applicant giving prior approval
3 to such an excess amount.

4 (3) All payments required of the potential applicant under this
5 section must be deposited into the energy facility site evaluation
6 council account created in section 15 of this act. All of these funds
7 are subject to state auditing procedures. Any unexpended portions of
8 the funds must be returned to the potential applicant.

9 (4) If a potential applicant subsequently submits a formal
10 application for site certification to the council for a site where a
11 preliminary study was conducted, payments made under this section for
12 that study may be considered as payment towards the application fee
13 provided in RCW 80.50.071.

14 NEW SECTION. Sec. 12. A new section is added to chapter 80.50
15 RCW to read as follows:

16 (1) Except for the siting of electrical transmission facilities,
17 any potential applicant may request a preapplication review of a
18 proposed project. Council staff must review the preapplicant's draft
19 application materials and provide comments on either additional
20 studies or stakeholder and tribal input, or both, that should be
21 included in the formal application for site certification. Council
22 staff must inform affected federally recognized tribes under RCW
23 80.50.060 of the preapplication review. The department of archaeology
24 and historic preservation shall coordinate with the affected
25 federally recognized tribes and the applicant in order to assess
26 potential effects to tribal cultural resources, archaeological sites,
27 and sacred sites.

28 (2) After initial review, the director and the applicant may
29 agree on fees to be paid by the applicant so that council staff may
30 conduct further review and consultation, including contracting for
31 review by other parties.

32 **Sec. 13.** RCW 80.50.340 and 2007 c 325 s 4 are each amended to
33 read as follows:

34 (1) A preapplicant applying under RCW 80.50.330 shall pay to the
35 council a fee of ten thousand dollars to be applied to the cost of
36 the preapplication process as a condition precedent to any action by
37 the council, provided that costs in excess of this amount shall be
38 paid only upon prior approval by the preapplicant, and provided

1 further that any unexpended portions thereof shall be returned to the
2 preapplicant.

3 (2) The council shall consult with the preapplicant and prepare a
4 plan for the preapplication process which shall commence with an
5 informational public hearing within (~~sixty~~) 60 days after the
6 receipt of the preapplication fee as provided in RCW 80.50.090.

7 (3) The preapplication plan shall include but need not be limited
8 to:

9 (a) An initial consultation to explain the proposal and request
10 input from council staff, federal and state agencies, cities, towns,
11 counties, port districts, tribal governments, property owners, and
12 interested individuals;

13 (b) Where applicable, a process to guide negotiations between the
14 preapplicant and cities, towns, and counties within the corridor
15 proposed pursuant to RCW 80.50.330.

16 (4) Fees paid under this section must be deposited in the energy
17 facility site evaluation council account created in section 15 of
18 this act.

19 NEW SECTION. Sec. 14. A new section is added to chapter 41.06
20 RCW to read as follows:

21 In addition to the exemptions provided under RCW 41.06.070, the
22 provisions of this chapter do not apply to the following positions at
23 the energy facility site evaluation council: The director; the
24 personal secretary to the director and the council chair; and up to
25 two professional staff members.

26 NEW SECTION. Sec. 15. A new section is added to chapter 80.50
27 RCW to read as follows:

28 The energy facility site evaluation council account is created in
29 the custody of the state treasurer. All receipts from funds received
30 by the council for all payments, including fees, deposits, and
31 reimbursements received under this chapter must be deposited into the
32 account. Expenditures from the account may be used for purposes set
33 forth in this chapter. Only the chair of the council or the chair's
34 designee may authorize expenditures from the account. The account is
35 subject to allotment procedures under chapter 43.88 RCW, but an
36 appropriation is not required for expenditures.

1 **Sec. 16.** RCW 43.79A.040 and 2021 c 175 s 10 and 2021 c 108 s 5
2 are each reenacted and amended to read as follows:

3 (1) Money in the treasurer's trust fund may be deposited,
4 invested, and reinvested by the state treasurer in accordance with
5 RCW 43.84.080 in the same manner and to the same extent as if the
6 money were in the state treasury, and may be commingled with moneys
7 in the state treasury for cash management and cash balance purposes.

8 (2) All income received from investment of the treasurer's trust
9 fund must be set aside in an account in the treasury trust fund to be
10 known as the investment income account.

11 (3) The investment income account may be utilized for the payment
12 of purchased banking services on behalf of treasurer's trust funds
13 including, but not limited to, depository, safekeeping, and
14 disbursement functions for the state treasurer or affected state
15 agencies. The investment income account is subject in all respects to
16 chapter 43.88 RCW, but no appropriation is required for payments to
17 financial institutions. Payments must occur prior to distribution of
18 earnings set forth in subsection (4) of this section.

19 (4)(a) Monthly, the state treasurer must distribute the earnings
20 credited to the investment income account to the state general fund
21 except under (b), (c), and (d) of this subsection.

22 (b) The following accounts and funds must receive their
23 proportionate share of earnings based upon each account's or fund's
24 average daily balance for the period: The 24/7 sobriety account, the
25 Washington promise scholarship account, the Gina Grant Bull memorial
26 legislative page scholarship account, the Rosa Franklin legislative
27 internship program scholarship (~~(account)~~) account, the Washington
28 advanced college tuition payment program account, the Washington
29 college savings program account, the accessible communities account,
30 the Washington achieving a better life experience program account,
31 the community and technical college innovation account, the
32 agricultural local fund, the American Indian scholarship endowment
33 fund, the foster care scholarship endowment fund, the foster care
34 endowed scholarship trust fund, the contract harvesting revolving
35 account, the Washington state combined fund drive account, the
36 commemorative works account, the county enhanced 911 excise tax
37 account, the county road administration board emergency loan account,
38 the toll collection account, the developmental disabilities endowment
39 trust fund, the energy account, the energy facility site evaluation
40 council account, the fair fund, the family and medical leave

1 insurance account, the fish and wildlife federal lands revolving
2 account, the natural resources federal lands revolving account, the
3 food animal veterinarian conditional scholarship account, the forest
4 health revolving account, the fruit and vegetable inspection account,
5 the educator conditional scholarship account, the game farm
6 alternative account, the GET ready for math and science scholarship
7 account, the Washington global health technologies and product
8 development account, the grain inspection revolving fund, the
9 Washington history day account, the industrial insurance rainy day
10 fund, the juvenile accountability incentive account, the law
11 enforcement officers' and firefighters' plan 2 expense fund, the
12 local tourism promotion account, the low-income home rehabilitation
13 revolving loan program account, the multiagency permitting team
14 account, the northeast Washington wolf-livestock management account,
15 the produce railcar pool account, the public use general aviation
16 airport loan revolving account, the regional transportation
17 investment district account, the rural rehabilitation account, the
18 Washington sexual assault kit account, the stadium and exhibition
19 center account, the youth athletic facility account, the self-
20 insurance revolving fund, the children's trust fund, the Washington
21 horse racing commission Washington bred owners' bonus fund and
22 breeder awards account, the Washington horse racing commission class
23 C purse fund account, the individual development account program
24 account, the Washington horse racing commission operating account,
25 the life sciences discovery fund, the Washington state library-
26 archives building account, the reduced cigarette ignition propensity
27 account, the center for deaf and hard of hearing youth account, the
28 school for the blind account, the Millersylvania park trust fund, the
29 public employees' and retirees' insurance reserve fund, the school
30 employees' benefits board insurance reserve fund, the public
31 employees' and retirees' insurance account, the school employees'
32 insurance account, the long-term services and supports trust account,
33 the radiation perpetual maintenance fund, the Indian health
34 improvement reinvestment account, the department of licensing tuition
35 recovery trust fund, the student achievement council tuition recovery
36 trust fund, the tuition recovery trust fund, the industrial insurance
37 premium refund account, the mobile home park relocation fund, the
38 natural resources deposit fund, the Washington state health insurance
39 pool account, the federal forest revolving account, and the library
40 operations account.

1 (c) The following accounts and funds must receive ((~~eighty~~)) 80
2 percent of their proportionate share of earnings based upon each
3 account's or fund's average daily balance for the period: The advance
4 right-of-way revolving fund, the advanced environmental mitigation
5 revolving account, the federal narcotics asset forfeitures account,
6 the high occupancy vehicle account, the local rail service assistance
7 account, and the miscellaneous transportation programs account.

8 (d) Any state agency that has independent authority over accounts
9 or funds not statutorily required to be held in the custody of the
10 state treasurer that deposits funds into a fund or account in the
11 custody of the state treasurer pursuant to an agreement with the
12 office of the state treasurer shall receive its proportionate share
13 of earnings based upon each account's or fund's average daily balance
14 for the period.

15 (5) In conformance with Article II, section 37 of the state
16 Constitution, no trust accounts or funds shall be allocated earnings
17 without the specific affirmative directive of this section.

18 NEW SECTION. **Sec. 17.** A new section is added to chapter 80.50
19 RCW to read as follows:

20 (1) Those administrative powers, duties, and functions of the
21 utilities and transportation commission that were performed under the
22 provisions of this chapter for the council prior to the effective
23 date of this section are transferred to the council as set forth in
24 this act.

25 (2)(a) All reports, documents, surveys, books, records, files,
26 papers, or written material in the possession of the utilities and
27 transportation commission pertaining to the powers, duties, and
28 functions transferred must be delivered to the custody of the
29 council. All cabinets, furniture, office equipment, motor vehicles,
30 and other tangible property under the inventory of the utilities and
31 transportation commission for the council must be transferred to the
32 council. All funds, credits, or other assets held by the utilities
33 and transportation commission for the benefit of the council, of
34 which were paid to the utilities and transportation commission
35 pursuant to this chapter must be assigned to the council and
36 transferred to the energy facility site evaluation council account
37 created in section 15 of this act.

38 (b) Any appropriations made to the utilities and transportation
39 commission for the council to carrying out its powers, functions, and

1 duties transferred must, on the effective date of this section, be
2 transferred and credited to the council. Any funds received pursuant
3 to payment made under this chapter must be credited to the council
4 and deposited in the energy facility site evaluation council account
5 created in section 15 of this act.

6 (c) If any question arises as to the transfer of any personnel,
7 funds, books, documents, records, papers, files, equipment, or other
8 tangible property used or held in the exercise of the powers and the
9 performance of the duties and functions transferred, the director of
10 financial management shall decide as to the proper allocation and
11 certify the same to the state agencies concerned.

12 (3) All pending business before the utilities and transportation
13 commission pertaining to the powers, duties, and functions
14 transferred must be continued and acted upon by the council. All
15 existing contracts and obligations remain in full force and must be
16 performed by the council.

17 (4) The transfer of the powers, duties, functions, and personnel
18 of the utilities and transportation commission does not affect the
19 validity of any act performed before the effective date of this
20 section.

21 (5) If apportionments of budgeted or nonbudgeted funds are
22 required because of the transfers directed by this section, the
23 director of financial management shall certify the apportionments to
24 the agencies affected, the state auditor, and the state treasurer.
25 Each of these shall make the appropriate transfer and adjustments in
26 funds and appropriation accounts and equipment records in accordance
27 with the certification.

28 (6) All employees of the utilities and transportation commission
29 that are engaged in performing the powers, functions, and duties of
30 the council, are transferred to the council. All employees classified
31 under chapter 41.06 RCW, the state civil service law, assigned to the
32 council shall continue to perform their usual duties upon the same
33 terms as formerly, without any loss of rights, subject to any action
34 that may be appropriate thereafter in accordance with the laws and
35 rules governing state civil service law.

36 **Sec. 18.** RCW 80.50.075 and 2006 c 205 s 2 are each amended to
37 read as follows:

38 (1) Any person filing an application for certification of ((~~an~~
39 ~~energy facility or an alternative energy resource~~)) any facility

1 pursuant to this chapter may apply to the council for an expedited
2 processing of such an application. The application for expedited
3 processing shall be submitted to the council in such form and manner
4 and accompanied by such information as may be prescribed by council
5 rule. The council may grant an applicant expedited processing of an
6 application for certification upon finding that the environmental
7 impact of the proposed ((energy)) facility is not significant or will
8 be mitigated to a nonsignificant level under RCW 43.21C.031 and the
9 project is found under RCW 80.50.090(2) to be consistent and in
10 compliance with city, county, or regional land use plans or zoning
11 ordinances.

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

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

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

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

23 NEW SECTION. **Sec. 19.** If specific funding for the purposes of
24 this act, referencing this act by bill or chapter number, is not
25 provided by June 30, 2022, in the omnibus appropriations act, this
26 act is null and void.

27 NEW SECTION. **Sec. 20.** This act takes effect June 30, 2022.

28 NEW SECTION. **Sec. 21.** The following acts or parts of acts are
29 each repealed:

30 (1) RCW 80.50.190 (Disposition of receipts from applicants) and
31 1977 ex.s. c 371 s 15; and

32 (2) RCW 80.50.904 (Effective date—1996 c 4) and 1996 c 4 s 6."

33 Correct the title.

Facility Site Evaluation Council (EFSEC); requires the Chair of EFSEC to notify the Department of Archaeology and Historic Preservation (DAHP), among other required entities, when an application for project certification is received, and requires the DAHP to coordinate with affected federally recognized tribes and the applicant; includes a goal for the government-to-government consultation process; removes clean fuel from the definition of clean energy product manufacturing facilities; and clarifies that EFSEC's siting laws apply to facilities that choose to opt-into EFSEC's siting process.

--- END ---