

**E2SHB 1812** - S COMM AMD

By Committee on Environment, Energy & Technology

**ADOPTED 03/03/2022**

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; and

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, or converting it to a  
28 green hydrogen carrier;

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

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

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

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

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

1 (26) "Green hydrogen carrier" means a chemical compound, created  
2 using electricity or renewable resources as energy input and without  
3 use of fossil fuel as a feedstock, from renewable hydrogen or green  
4 electrolytic hydrogen for the purposes of transportation, storage,  
5 and dispensing of hydrogen.

6 (27) "Renewable hydrogen" means hydrogen produced using renewable  
7 resources both as the source for the hydrogen and the source for the  
8 energy input into the production process.

9 (28) "Renewable natural gas" means a gas consisting largely of  
10 methane and other hydrocarbons derived from the decomposition of  
11 organic material in landfills, wastewater treatment facilities, and  
12 anaerobic digesters.

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

18 (30) "Storage facility" means a plant that: (a) Accepts  
19 electricity as an energy source and uses a chemical, thermal,  
20 mechanical, or other process to store energy for subsequent delivery  
21 or consumption in the form of electricity; or (b) stores renewable  
22 hydrogen, green electrolytic hydrogen, or a green hydrogen carrier  
23 for subsequent delivery or consumption.

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

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

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

1        ~~((b) The chair or a designee shall execute all official~~  
2 ~~documents, contracts, and other materials on behalf of the council.~~  
3 ~~The Washington utilities and transportation commission shall provide~~  
4 ~~all administrative and staff support for the council. The commission~~  
5 ~~has supervisory authority over the staff of the council and shall~~  
6 ~~employ such personnel as are necessary to implement this chapter. Not~~  
7 ~~more than three such employees may be exempt from chapter 41.06 RCW.~~  
8 ~~The council shall otherwise retain its independence in exercising its~~  
9 ~~powers, functions, and duties and its supervisory control over~~  
10 ~~nonadministrative staff support. Membership, powers, functions, and~~  
11 ~~duties of the Washington state utilities and transportation~~  
12 ~~commission and the council shall otherwise remain as provided by~~  
13 ~~law.))~~

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

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

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

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

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

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

22        (i) The director of the department of ecology or the director's  
23 designee;

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

26        (iii) The director of the department of commerce or the  
27 director's designee;

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

30        (v) The commissioner of public lands or the commissioner's  
31 designee.

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

37        (i) Department of agriculture;

38        (ii) Department of health;

39        (iii) Military department; and

40        (iv) Department of transportation.

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

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

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

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

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

33       NEW SECTION. Sec. 4. A new section is added to chapter 80.50  
34 RCW to read as follows:

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

38       (2) The chair of the council shall appoint a director to oversee  
39 the operations of the council and carry out the duties of this

1 chapter as delegated by the chair. The chair of the council may  
2 delegate to the director its status as appointing authority for the  
3 council.

4 (3) The director shall employ such administrative and  
5 professional personnel as may be necessary to perform the  
6 administrative work of the council and implement this chapter. The  
7 director has supervisory authority over all staff of the council. Not  
8 more than four employees may be exempt from chapter 41.06 RCW.

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

11 The council shall have the following powers:

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

16 (2) To develop and apply environmental and ecological guidelines  
17 in relation to the type, design, location, construction, ~~((and))~~  
18 initial operational conditions of certification, and ongoing  
19 regulatory oversight under the regulatory authority established in  
20 this chapter of energy facilities subject to this chapter;

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

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

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

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

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

34 (8) To prepare written reports to the governor which shall  
35 include: (a) A statement indicating whether the application is in  
36 compliance with the council's guidelines, (b) criteria specific to  
37 the site and transmission line routing, (c) a council recommendation  
38 as to the disposition of the application, and (d) a draft

1 certification agreement when the council recommends approval of the  
2 application;

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

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

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

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

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

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

35 (1) (~~Except for biofuel refineries specified in RCW~~  
36 ~~80.50.020(12)(g), the~~) (a) The provisions of this chapter apply to  
37 the construction of energy facilities which includes the new  
38 construction of energy facilities and the reconstruction or  
39 enlargement of existing energy facilities where the net increase in

1 physical capacity or dimensions resulting from such reconstruction or  
2 enlargement meets or exceeds those capacities or dimensions set forth  
3 in RCW 80.50.020 (12) and (21). No construction or reconstruction of  
4 such energy facilities may be undertaken, except as otherwise  
5 provided in this chapter, (~~after July 15, 1977,~~) without first  
6 obtaining certification in the manner provided in this chapter.

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

13 ~~(3))~~ (b) If applicants proposing the following types of  
14 facilities choose to receive certification under this chapter, the  
15 provisions of this chapter apply to the construction, reconstruction,  
16 or enlargement of these new or existing facilities:

17 (i) Facilities that produce refined biofuel, but which are not  
18 capable of producing 25,000 barrels or more per day;

19 (ii) Alternative energy resource facilities;

20 (iii) Electrical transmission facilities: (A) Of a nominal  
21 voltage of at least 115,000 volts; and (B) located in more than one  
22 jurisdiction that has promulgated land use plans or zoning  
23 ordinances;

24 (iv) Clean energy product manufacturing facilities; and

25 (v) Storage facilities.

26 (c) All of the council's powers with regard to energy facilities  
27 apply to all of the facilities in (b) of this subsection and these  
28 facilities are subject to all provisions of this chapter that apply  
29 to an energy facility.

30 (2)(a) The provisions of this chapter must apply to the  
31 construction, reconstruction, or modification of electrical  
32 transmission facilities when(~~+~~

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

35 ~~(ii) An applicant chooses to receive certification under this~~  
36 ~~chapter, and the facilities are: (A) Of a nominal voltage of at least~~  
37 ~~one hundred fifteen thousand volts and are located in a completely~~  
38 ~~new corridor, except for the terminus of the new facility or~~  
39 ~~interconnection of the new facility with the existing grid, and the~~  
40 ~~corridor is not otherwise used for electrical transmission~~

1 facilities; and (B) located in more than one jurisdiction that has  
2 promulgated land use plans or zoning ordinances; or

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

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

18 (~~(4)~~) (3) The provisions of this chapter shall not apply to  
19 normal maintenance and repairs which do not increase the capacity or  
20 dimensions beyond those set forth in RCW 80.50.020 (12) and (21).

21 (~~(5)~~) (4) Applications for certification of energy facilities  
22 made prior to July 15, 1977, shall continue to be governed by the  
23 applicable provisions of law in effect on the day immediately  
24 preceding July 15, 1977, with the exceptions of RCW (~~80.50.190 and~~)  
25 80.50.071 which shall apply to such prior applications and to site  
26 certifications prospectively from July 15, 1977.

27 (~~(6)~~) (5) Applications for certification shall be upon forms  
28 prescribed by the council and shall be supported by such information  
29 and technical studies as the council may require.

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

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

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

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

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

39 (7) The council must work with local governments where a project  
40 is proposed to be sited in order to provide for meaningful

1 participation and input during siting review and compliance  
2 monitoring.

3 (8) The council must consult with all federally recognized tribes  
4 that possess resources, rights, or interests reserved or protected by  
5 federal treaty, statute, or executive order in the area where an  
6 energy facility is proposed to be located to provide early and  
7 meaningful participation and input during siting review and  
8 compliance monitoring. The chair and designated staff must offer to  
9 conduct government-to-government consultation to address issues of  
10 concern raised by such a tribe. The goal of the consultation process  
11 is to identify tribal resources or rights potentially affected by the  
12 proposed energy facility and to seek ways to avoid, minimize, or  
13 mitigate any adverse effects on tribal resources or rights. The chair  
14 must provide regular updates on the consultation to the council  
15 throughout the application review process. The report from the  
16 council to the governor required in RCW 80.50.100 must include a  
17 summary of the government-to-government consultation process that  
18 complies with RCW 42.56.300, including the issues and proposed  
19 resolutions.

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

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

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

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

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

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

1 (a) Each applicant shall, at the time of application submission,  
2 (~~deposit with the utilities and transportation commission~~) pay to  
3 the council for deposit into the energy facility site evaluation  
4 council account created in section 15 of this act an amount up to  
5 fifty thousand dollars, or such greater amount as specified by the  
6 council after consultation with the applicant. The council (~~and the~~  
7 ~~utilities and transportation commission~~) shall charge costs against  
8 the deposit if the applicant withdraws its application and has not  
9 reimbursed (~~the commission, on behalf of~~) the council(~~(r)~~) for all  
10 actual expenditures incurred in considering the application.

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

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

29 (2) Each certificate holder shall pay (~~to the utilities and~~  
30 ~~transportation commission~~) the actual costs incurred by the council  
31 for inspection and determination of compliance by the certificate  
32 holder with the terms of the certification relative to monitoring the  
33 effects of construction, operation, and site restoration of the  
34 facility.

35 (a) Each certificate holder shall, within thirty days of  
36 execution of the site certification agreement, (~~deposit with the~~  
37 ~~utilities and transportation commission~~) pay to the council for  
38 deposit into the energy facility site evaluation council account  
39 created in section 15 of this act an amount up to fifty thousand  
40 dollars, or such greater amount as specified by the council after

1 consultation with the certificate holder. The council (~~and the~~  
2 ~~utilities and transportation commission~~) shall charge costs against  
3 the deposit if the certificate holder ceases operations and has not  
4 reimbursed (~~the commission, on behalf of~~) the council(~~(r)~~) for all  
5 actual expenditures incurred in conducting inspections and  
6 determining compliance with the terms of the certification.

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

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

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

38 (5) (a) Upon receipt of an application for an energy facility site  
39 certification proposing an energy plant or alternative energy  
40 resource that is connected to electrical transmission facilities of a

1 nominal voltage of at least one hundred fifteen thousand volts, the  
2 council shall notify in writing the United States department of  
3 defense. The notification shall include, but not be limited to, the  
4 following:

5 (i) A description of the proposed energy plant or alternative  
6 energy resource;

7 (ii) The location of the site;

8 (iii) The placement of the energy plant or alternative energy  
9 resource on the site;

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

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

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

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

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

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

32 (2) Subsequent to the informational public hearing, the council  
33 shall conduct a public hearing to determine whether or not the  
34 proposed site is consistent and in compliance with city, county, or  
35 regional land use plans or zoning ordinances (~~(. If it is determined~~  
36 ~~that the proposed site does conform with existing land use plans or~~  
37 ~~zoning ordinances in effect as of the date of the application, the~~  
38 ~~city, county, or regional planning authority shall not thereafter~~

1 ~~change such land use plans or zoning ordinances so as to affect the~~  
2 ~~proposed site)) on the date of the application.~~

3 (3) (a) After the submission of an environmental checklist and  
4 prior to issuing a threshold determination that a facility is likely  
5 to cause a significant adverse environmental impact under chapter  
6 43.21C RCW, the director must notify the project applicant and  
7 explain in writing the basis for its anticipated determination of  
8 significance. Prior to issuing the threshold determination of  
9 significance, the director must give the project applicant the option  
10 of withdrawing and revising its application and the associated  
11 environmental checklist to clarify or make changes to features of the  
12 proposal that are designed to mitigate the impacts that were the  
13 basis of the director's anticipated determination of significance.  
14 The director shall make the threshold determination based upon the  
15 changed or clarified proposal following the applicant's submittal.  
16 The director must provide an opportunity for public comment on a  
17 project for which a project applicant has withdrawn and revised the  
18 application and environmental checklist and subsequently received a  
19 threshold determination of nonsignificance or mitigated determination  
20 of nonsignificance.

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

24 ~~((3))~~ (4) Prior to the issuance of a council recommendation to  
25 the governor under RCW 80.50.100 a public hearing, conducted as an  
26 adjudicative proceeding under chapter 34.05 RCW, the administrative  
27 procedure act, shall be held.

28 (a) At such public hearing any person shall be entitled to be  
29 heard in support of or in opposition to the application for  
30 certification by raising one or more specific issues, provided that  
31 the person has raised the issue or issues in writing with specificity  
32 during the application review process or during the public comment  
33 period that will be held prior to the start of the adjudicative  
34 hearing.

35 (b) If the environmental impact of the proposed facility in an  
36 application for certification is not significant or will be mitigated  
37 to a nonsignificant level under RCW 43.21C.031, the council may limit  
38 the topic of the public hearing conducted as an adjudicative  
39 proceeding under this section to whether any land use plans or zoning  
40 ordinances with which the proposed site is determined to be

1 inconsistent under subsection (2) of this section should be  
2 preempted.

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

7 ~~((4))~~ (6) Additional public hearings shall be held as deemed  
8 appropriate by the council in the exercise of its functions under  
9 this chapter.

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

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

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

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

30 (2) If the council recommends approval of an application for  
31 certification, it shall also submit a draft certification agreement  
32 with the report. The council shall include conditions in the draft  
33 certification agreement to implement the provisions of this  
34 chapter~~((r))~~ including, but not limited to, conditions to protect  
35 state ~~((e))~~ local governmental, or community interests, or  
36 overburdened communities as defined in RCW 70A.02.010 affected by the  
37 construction or operation of the ~~((energy))~~ facility, and conditions  
38 designed to recognize the purpose of laws or ordinances, or rules or

1 regulations promulgated thereunder, that are preempted or superseded  
2 pursuant to RCW 80.50.110 as now or hereafter amended.

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

5 (i) Approve the application and execute the draft certification  
6 agreement; or

7 (ii) Reject the application; or

8 (iii) Direct the council to reconsider certain aspects of the  
9 draft certification agreement.

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

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

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

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

30 (~~(2) (The council, upon request of any potential applicant, is~~  
31 ~~authorized, as provided in this section, to conduct a preliminary~~  
32 ~~study of any potential site prior to receipt of an application for~~  
33 ~~site certification. A fee of ten thousand dollars for each potential~~  
34 ~~site, to be applied toward the cost of any study agreed upon pursuant~~  
35 ~~to subsection (3) of this section, shall accompany the request and~~  
36 ~~shall be a condition precedent to any action on the request by the~~  
37 ~~council.~~

38 (~~(3) After receiving a request to study a potential site, the~~  
39 ~~council shall commission its own independent consultant to study~~

1 matters relative to the potential site. The study shall include, but  
2 need not be limited to, the preparation and analysis of environmental  
3 impact information for the proposed potential site and any other  
4 matter the council and the potential applicant deem essential to an  
5 adequate appraisal of the potential site. In conducting the study,  
6 the council is authorized to cooperate and work jointly with the  
7 county or counties in which the potential site is located, any  
8 federal, state, or local governmental agency that might be requested  
9 to comment upon the potential site, and any municipal or public  
10 corporation having an interest in the matter. The full cost of the  
11 study shall be paid by the potential applicant: PROVIDED, That such  
12 costs exceeding a total of ten thousand dollars shall be payable  
13 subject to the potential applicant giving prior approval to such  
14 excess amount.

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

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

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

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

1       **(b) Upon agreement with the potential applicant, the council may**  
2 **commission its own independent consultant to study matters relative**  
3 **to the potential project. In conducting the study, the council is**  
4 **authorized to cooperate and work jointly with the county or counties**  
5 **in which the potential project is located, any federal, state, local,**  
6 **or tribal governmental agency that might be requested to comment on**  
7 **the potential project, and any municipal or public corporation having**  
8 **an interest in the matter. The full cost of the study must be paid by**  
9 **the potential applicant. However, costs exceeding a total of \$10,000**  
10 **are payable subject to the potential applicant giving prior approval**  
11 **to such an excess amount.**

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

17       **(4) If a potential applicant subsequently submits a formal**  
18 **application for site certification to the council for a site where a**  
19 **preliminary study was conducted, payments made under this section for**  
20 **that study may be considered as payment towards the application fee**  
21 **provided in RCW 80.50.071.**

22       **NEW SECTION. Sec. 12.** A new section is added to chapter 80.50  
23 RCW to read as follows:

24       (1) Except for the siting of electrical transmission facilities,  
25 any potential applicant may request a preapplication review of a  
26 proposed project. Council staff must review the preapplicant's draft  
27 application materials and provide comments on either additional  
28 studies or stakeholder and tribal input, or both, that should be  
29 included in the formal application for site certification. Council  
30 staff must inform affected federally recognized tribes under RCW  
31 80.50.060 of the preapplication review. The department of archaeology  
32 and historic preservation shall coordinate with the affected  
33 federally recognized tribes and the applicant in order to assess  
34 potential effects to tribal cultural resources, archaeological sites,  
35 and sacred sites.

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

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

3       (1) A preapplicant applying under RCW 80.50.330 shall pay to the  
4 council a fee of ten thousand dollars to be applied to the cost of  
5 the preapplication process as a condition precedent to any action by  
6 the council, provided that costs in excess of this amount shall be  
7 paid only upon prior approval by the preapplicant, and provided  
8 further that any unexpended portions thereof shall be returned to the  
9 preapplicant.

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

14       (3) The preapplication plan shall include but need not be limited  
15 to:

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

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

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

26       NEW SECTION.   **Sec. 14.** A new section is added to chapter 41.06  
27 RCW to read as follows:

28       In addition to the exemptions provided under RCW 41.06.070, the  
29 provisions of this chapter do not apply to the following positions at  
30 the energy facility site evaluation council: The director; the  
31 personal secretary to the director and the council chair; and up to  
32 two professional staff members.

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

35       The energy facility site evaluation council account is created in  
36 the custody of the state treasurer. All receipts from funds received  
37 by the council for all payments, including fees, deposits, and  
38 reimbursements received under this chapter must be deposited into the

1 account. Expenditures from the account may be used for purposes set  
2 forth in this chapter. Only the chair of the council or the chair's  
3 designee may authorize expenditures from the account. The account is  
4 subject to allotment procedures under chapter 43.88 RCW, but an  
5 appropriation is not required for expenditures.

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

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

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

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

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

27 (b) The following accounts and funds must receive their  
28 proportionate share of earnings based upon each account's or fund's  
29 average daily balance for the period: The 24/7 sobriety account, the  
30 Washington promise scholarship account, the Gina Grant Bull memorial  
31 legislative page scholarship account, the Rosa Franklin legislative  
32 internship program scholarship (~~(account)~~) account, the Washington  
33 advanced college tuition payment program account, the Washington  
34 college savings program account, the accessible communities account,  
35 the Washington achieving a better life experience program account,  
36 the community and technical college innovation account, the  
37 agricultural local fund, the American Indian scholarship endowment  
38 fund, the foster care scholarship endowment fund, the foster care  
39 endowed scholarship trust fund, the contract harvesting revolving

1 account, the Washington state combined fund drive account, the  
2 commemorative works account, the county enhanced 911 excise tax  
3 account, the county road administration board emergency loan account,  
4 the toll collection account, the developmental disabilities endowment  
5 trust fund, the energy account, the energy facility site evaluation  
6 council account, the fair fund, the family and medical leave  
7 insurance account, the fish and wildlife federal lands revolving  
8 account, the natural resources federal lands revolving account, the  
9 food animal veterinarian conditional scholarship account, the forest  
10 health revolving account, the fruit and vegetable inspection account,  
11 the educator conditional scholarship account, the game farm  
12 alternative account, the GET ready for math and science scholarship  
13 account, the Washington global health technologies and product  
14 development account, the grain inspection revolving fund, the  
15 Washington history day account, the industrial insurance rainy day  
16 fund, the juvenile accountability incentive account, the law  
17 enforcement officers' and firefighters' plan 2 expense fund, the  
18 local tourism promotion account, the low-income home rehabilitation  
19 revolving loan program account, the multiagency permitting team  
20 account, the northeast Washington wolf-livestock management account,  
21 the produce railcar pool account, the public use general aviation  
22 airport loan revolving account, the regional transportation  
23 investment district account, the rural rehabilitation account, the  
24 Washington sexual assault kit account, the stadium and exhibition  
25 center account, the youth athletic facility account, the self-  
26 insurance revolving fund, the children's trust fund, the Washington  
27 horse racing commission Washington bred owners' bonus fund and  
28 breeder awards account, the Washington horse racing commission class  
29 C purse fund account, the individual development account program  
30 account, the Washington horse racing commission operating account,  
31 the life sciences discovery fund, the Washington state library-  
32 archives building account, the reduced cigarette ignition propensity  
33 account, the center for deaf and hard of hearing youth account, the  
34 school for the blind account, the Millersylvania park trust fund, the  
35 public employees' and retirees' insurance reserve fund, the school  
36 employees' benefits board insurance reserve fund, the public  
37 employees' and retirees' insurance account, the school employees'  
38 insurance account, the long-term services and supports trust account,  
39 the radiation perpetual maintenance fund, the Indian health  
40 improvement reinvestment account, the department of licensing tuition

1 recovery trust fund, the student achievement council tuition recovery  
2 trust fund, the tuition recovery trust fund, the industrial insurance  
3 premium refund account, the mobile home park relocation fund, the  
4 natural resources deposit fund, the Washington state health insurance  
5 pool account, the federal forest revolving account, and the library  
6 operations account.

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

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

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

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

26 (1) Those administrative powers, duties, and functions of the  
27 utilities and transportation commission that were performed under the  
28 provisions of this chapter for the council prior to the effective  
29 date of this section are transferred to the council as set forth in  
30 this act.

31 (2)(a) All reports, documents, surveys, books, records, files,  
32 papers, or written material in the possession of the utilities and  
33 transportation commission pertaining to the powers, duties, and  
34 functions transferred must be delivered to the custody of the  
35 council. All cabinets, furniture, office equipment, motor vehicles,  
36 and other tangible property under the inventory of the utilities and  
37 transportation commission for the council must be transferred to the  
38 council. All funds, credits, or other assets held by the utilities  
39 and transportation commission for the benefit of the council, of

1 which were paid to the utilities and transportation commission  
2 pursuant to this chapter must be assigned to the council and  
3 transferred to the energy facility site evaluation council account  
4 created in section 15 of this act.

5 (b) Any appropriations made to the utilities and transportation  
6 commission for the council to carrying out its powers, functions, and  
7 duties transferred must, on the effective date of this section, be  
8 transferred and credited to the council. Any funds received pursuant  
9 to payment made under this chapter must be credited to the council  
10 and deposited in the energy facility site evaluation council account  
11 created in section 15 of this act.

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

18 (3) All pending business before the utilities and transportation  
19 commission pertaining to the powers, duties, and functions  
20 transferred must be continued and acted upon by the council. All  
21 existing contracts and obligations remain in full force and must be  
22 performed by the council.

23 (4) The transfer of the powers, duties, functions, and personnel  
24 of the utilities and transportation commission does not affect the  
25 validity of any act performed before the effective date of this  
26 section.

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

34 (6) All employees of the utilities and transportation commission  
35 that are engaged in performing the powers, functions, and duties of  
36 the council, are transferred to the council. All employees classified  
37 under chapter 41.06 RCW, the state civil service law, assigned to the  
38 council shall continue to perform their usual duties upon the same  
39 terms as formerly, without any loss of rights, subject to any action

1 that may be appropriate thereafter in accordance with the laws and  
2 rules governing state civil service law.

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

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

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

20 (a) Commission an independent study to further measure the  
21 consequences of the proposed (~~energy facility or alternative energy~~  
22 ~~resource~~) facility on the environment, notwithstanding the other  
23 provisions of RCW 80.50.071; nor

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

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

29 NEW SECTION. **Sec. 19.** (1)(a) The department must consult with  
30 stakeholders from rural communities, agriculture, natural resource  
31 management and conservation, and forestry to gain a better  
32 understanding of the benefits and impacts of anticipated changes in  
33 the state's energy system, including the siting of facilities under  
34 the jurisdiction of the energy facility site evaluation council, and  
35 to identify risks and opportunities for rural communities. This  
36 consultation must be conducted in compliance with the community  
37 engagement plan developed by the department under chapter 70A.02 RCW  
38 and with input from the environmental justice council, using the best

1 recommended practices available at the time. The department must  
2 collect the best available information and learn from the lived  
3 experiences of people in rural communities, with the objective of  
4 improving state implementation of clean energy policies, including  
5 the siting of energy facilities under the jurisdiction of the energy  
6 facility site evaluation council, in ways that protect and improve  
7 life in rural Washington. The department must consult with an array  
8 of rural community members, including: Low-income community and  
9 vulnerable population members or representatives; legislators; local  
10 elected officials and staff; those involved with agriculture,  
11 forestry, and natural resource management and conservation; renewable  
12 energy project property owners; utilities; large energy consumers;  
13 and others.

14 (b) The consultation must include stakeholder meetings with at  
15 least one in eastern Washington and one in western Washington.

16 (c) The department's consultation with stakeholders may include,  
17 but is not limited to, the following topics:

18 (i) Energy facility siting under the jurisdiction of the energy  
19 facility site evaluation council, including placement of new  
20 renewable energy resources, such as wind and solar generation, pumped  
21 storage, and batteries or new nonemitting electric generation  
22 resources, and their contribution to resource adequacy;

23 (ii) Production of hydrogen, biofuels, and feedstocks for clean  
24 fuels;

25 (iii) Programs to reduce energy cost burdens on rural families  
26 and farm operations;

27 (iv) Electric vehicles, farm and warehouse equipment, and  
28 charging infrastructure suitable for rural use;

29 (v) Efforts to capture carbon or produce energy on agricultural,  
30 forest, and other rural lands, including dual use solar projects that  
31 ensure ongoing agricultural operations;

32 (vi) The use of wood products and forest practices that provide  
33 low-carbon building materials and renewable fuel supplies; and

34 (vii) The development of clean manufacturing facilities, such as  
35 solar panels, vehicles, and carbon fiber.

36 (2)(a) The department must complete a report on rural clean  
37 energy and resilience that takes into consideration the consultation  
38 with rural stakeholders as described in subsection (1) of this  
39 section. The report must include recommendations for how policies,  
40 projects, and investment programs, including energy facility siting

1 through the energy facility site evaluation council, can be developed  
2 or amended to more equitably distribute costs and benefits to rural  
3 communities. The report must include an assessment of how to improve  
4 the total benefits to rural areas overall, as well as the equitable  
5 distribution of benefits and costs within rural communities.

6 (b) The report must include a baseline understanding of rural  
7 energy production and consumption, and collect data on their economic  
8 impacts. Specifically, the report must examine:

9 (i) Direct, indirect, and induced jobs in construction and  
10 operations;

11 (ii) Financial returns to property owners;

12 (iii) Effects on local tax revenues and public services, which  
13 must include whether any school districts had a net loss of resources  
14 from diminished local effort assistance payments required under  
15 chapter 28A.500 RCW;

16 (iv) Effects on other rural land uses, such as agriculture,  
17 natural resource management and conservation, and tourism;

18 (v) Geographic distribution of large energy projects previously  
19 sited or forecast to be sited in Washington;

20 (vi) Potential forms of economic development assistance and  
21 impact mitigation payments; and

22 (vii) Relevant information from the least-conflict priority solar  
23 siting pilot project in the Columbia basin of eastern and central  
24 Washington required under section 607, chapter 334, Laws of 2021.

25 (c) The report must include a forecast of what Washington's clean  
26 energy transition will require for siting energy projects in rural  
27 Washington. The department must gather and analyze the best available  
28 information to produce forecast scenarios.

29 (d) By December 1, 2022, the department must submit an interim  
30 report on rural clean energy and resilience to the joint committee on  
31 energy supply, energy conservation, and energy resilience created in  
32 RCW 44.39.010, the energy facility site evaluation council, and the  
33 appropriate policy and fiscal committees of the legislature.

34 (e) By December 1, 2023, the department must submit a final  
35 report on rural clean energy and resilience to the joint committee on  
36 energy supply, energy conservation, and energy resilience created in  
37 RCW 44.39.010, the energy facility site evaluation council, and the  
38 appropriate policy and fiscal committees of the legislature.

39 (3) For the purposes of this section, "department" means the  
40 department of commerce.

1       **Sec. 20.** RCW 44.39.010 and 2005 c 299 s 1 are each amended to  
2 read as follows:

3       There is hereby created the joint committee on energy supply  
4 (~~and~~), energy conservation, and energy resilience.

5       **Sec. 21.** RCW 44.39.012 and 2005 c 299 s 4 are each amended to  
6 read as follows:

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

9       (1) "Committee" means the joint committee on energy supply  
10 (~~and~~), energy conservation, and energy resilience.

11       (2) "Conservation" means reduced energy consumption or energy  
12 cost, or increased efficiency in the use of energy, and activities,  
13 measures, or equipment designed to achieve such results.

14       NEW SECTION.   **Sec. 22.** (1)(a) The committee shall review the  
15 following issues:

16       (i) Inequities in where large alternative energy projects,  
17 including projects under the jurisdiction of the energy facility site  
18 evaluation council, have been sited in Washington;

19       (ii) Inequities in where large alternative energy projects,  
20 including projects under the jurisdiction of the energy facility site  
21 evaluation council, are forecast to be sited in Washington; and

22       (iii) Forms of economic development assistance, mitigation  
23 payments, and viewshed impairment payments that counties not hosting  
24 their per capita share of alternative energy resources should provide  
25 to counties that host more than their per capita share.

26       (b) In support of its obligations under (a) of this subsection,  
27 the committee must review the report produced by the department of  
28 commerce under section 19 of this act.

29       (2) The committee must hold at least four meetings, at least two  
30 of which must be in eastern Washington. The first meeting of the  
31 committee must occur by September 30, 2022.

32       (3) Relevant state agencies, departments, and commissions,  
33 including the energy facility site evaluation council, shall  
34 cooperate with the committee and provide information as the chair  
35 reasonably requests.

36       (4) The committee shall report its findings and any  
37 recommendations to the energy facility site evaluation council and  
38 the committees of the legislature with jurisdiction over environment

1 and energy laws by December 1, 2023. Recommendations of the committee  
2 may be made by a simple majority of committee members. In the event  
3 that the committee does not reach majority-supported recommendations,  
4 the committee may report minority findings supported by at least two  
5 members of the committee.

6 (5) The definitions in this subsection apply throughout this  
7 section unless the context clearly requires otherwise.

8 (a) "Alternative energy" means energy derived from an alternative  
9 energy resource specified in RCW 80.50.020(1).

10 (b) "Committee" means the joint committee on energy supply,  
11 energy conservation, and energy resilience created in RCW 44.39.010.

12 (6) This section expires June 30, 2024.

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

17 NEW SECTION. **Sec. 24.** This act takes effect June 30, 2022.

18 NEW SECTION. **Sec. 25.** The following acts or parts of acts are  
19 each repealed:

20 (1) RCW 80.50.190 (Disposition of receipts from applicants) and  
21 1977 ex.s. c 371 s 15; and

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

**E2SHB 1812** - S COMM AMD

By Committee on Environment, Energy & Technology

**ADOPTED 03/03/2022**

23 On page 1, line 2 of the title, after "goals;" strike the  
24 remainder of the title and insert "amending RCW 80.50.010, 80.50.020,  
25 80.50.040, 80.50.060, 80.50.071, 80.50.100, 80.50.175, 80.50.340,  
26 80.50.075, 44.39.010, and 44.39.012; reenacting and amending RCW  
27 80.50.030, 80.50.090, and 43.79A.040; adding new sections to chapter  
28 80.50 RCW; adding a new section to chapter 41.06 RCW; creating new  
29 sections; repealing RCW 80.50.190 and 80.50.904; providing an  
30 effective date; and providing an expiration date."

EFFECT: Clarifies that biofuel facilities that produce less than 25,000 barrels a day may opt-in the Energy Facility Site Evaluation Council (EFSEC) siting process and removes these biofuel facilities from the definition of "energy plant."

Clarifies that green hydrogen carriers are eligible to opt-in to the EFSEC siting process and adds a definition of green hydrogen carrier.

Adds overburdened communities to the list of entities to be protected in the implementation provisions of the draft certification agreement provided to the Governor.

Adds natural resource management and conservation to the list of stakeholders the Department of Commerce (Commerce) must consult with to gain a better understanding of the state's energy system.

Clarifies at least one Commerce stakeholder meeting must be in eastern Washington and one in western Washington.

Directs Commerce to include in its report on rural clean energy and resilience relevant information from the existing least-conflict priority solar siting pilot project in the Columbian basin.

Eliminates the Joint Select Committee on Alternative Energy Facility Siting, but transfers the report and recommendation requirements to the existing Joint Committee on Energy Supply and Energy Conservation (Joint Committee).

Renames the Joint Committee as the Joint Committee on Energy Supply, Energy Conservation, and Energy Resiliency.

Makes technical corrections.

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