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**SUBSTITUTE SENATE BILL 5678**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

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

READ FIRST TIME 01/28/22.

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

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 19.405  
6 RCW to read as follows:

7 (1) An investor-owned utility may petition the commission for a  
8 declaratory order pursuant to RCW 34.05.240 to determine whether a  
9 proposed energy transformation project, nonemitting electric  
10 generation project, or renewable resource project meets the  
11 requirements of RCW 19.405.040 (1) through (3) and 19.405.050 (1) and  
12 (5).

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

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

1 (4) If an investor-owned utility seeks approval of a resource or  
2 project in a clean energy implementation plan under RCW 19.405.060,  
3 or in a proceeding to set rates, that the commission has previously  
4 determined under this section complies with the requirements of RCW  
5 19.405.040 (1) through (3) or 19.405.050 (1) and (5) and the resource  
6 or project deviates substantively from the one described in the  
7 commission's determination in a manner that affects the resource's or  
8 project's potential compliance with RCW 19.405.040 (1) through (3) or  
9 19.405.050 (1) and (5), the commission may reevaluate the resource or  
10 project to determine if it complies.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 19.405  
12 RCW to read as follows:

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

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

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

29 (4) Nothing in section 1 of this act may be construed to require  
30 an investor-owned utility to seek an order declaring whether the  
31 proposed resource or project complies with the requirements of RCW  
32 19.405.040 (1) through (3) or 19.405.050 (1) and (5).

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