

E2SHB 1216 - S COMM AMD
By Committee on Ways & Means

ADOPTED AND ENGROSSED 04/08/2023

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

3 "NEW SECTION. **Sec. 1.** STATEMENT OF LEGISLATIVE INTENT. (1) The
4 legislature finds that efficient and effective siting and permitting
5 of new clean energy projects throughout Washington is necessary to:
6 Fight climate change and achieve the state's greenhouse gas emission
7 limits; improve air quality; grow family-wage clean energy jobs and
8 innovative clean energy businesses that provide economic benefits
9 across the state; and make available secure domestic sources of the
10 clean energy products needed to transition off fossil fuels.

11 (2) The legislature intends to: Enable more efficient and
12 effective siting and permitting of clean energy projects with
13 policies and investments that protect the environment, overburdened
14 communities, and tribal rights, interests, and resources, including
15 cultural resources; bring benefits to the communities that host clean
16 energy projects; and facilitate the rapid transition to clean energy
17 that is required to avoid the worst impacts of climate change on
18 Washington's people and places. There is no single solution for
19 improved siting and permitting processes. Rather, a variety of
20 efforts and investments will help bring together state, local,
21 tribal, and federal governments, communities, workers, clean energy
22 project developers, and others to succeed in this essential task. The
23 legislature intends to make biennial appropriations to support tribal
24 review of clean energy project proposals, permit applications, and
25 environmental reviews, as well as tribal participation in up-front
26 planning for clean energy projects, such as nonproject environmental
27 impact statements for clean energy projects as described in this act.

28 (3) Efficient and effective siting and permitting will benefit
29 from early and meaningful community and tribal engagement, and from
30 up-front planning including identification of areas of higher and
31 lower levels of impact, and nonproject environmental review that
32 identifies measures to avoid, minimize, and mitigate project impacts.

1 (4) Incorporating the principles and strategies identified in
2 subsections (1), (2), and (3) of this section, the legislature
3 intends to invest in, facilitate, and require better coordinated,
4 faster environmental review and permitting decisions by state and
5 local governments.

6 (5) Therefore, it is the intent of the legislature to support
7 efficient, effective siting and permitting of clean energy projects
8 through a variety of interventions, including:

9 (a) Establishing an interagency clean energy siting coordinating
10 council to improve siting and permitting of clean energy projects;

11 (b) Creating a designation for clean energy projects of statewide
12 significance;

13 (c) Creating a fully coordinated permit process for clean energy
14 projects;

15 (d) Improving processes for review of clean energy projects under
16 the state environmental policy act;

17 (e) Requiring preparation of separate nonproject environmental
18 impact statements for green electrolytic and renewable hydrogen
19 projects and colocated battery energy storage facilities, onshore
20 utility-scale wind energy projects and colocated battery energy
21 storage facilities, and for solar energy projects and colocated
22 battery energy storage facilities, with the goal of preparing these
23 nonproject reviews by June 30, 2025; and

24 (f) Requiring the Washington State University energy program to
25 complete by June 30, 2025, a siting information process for pumped
26 storage projects in Washington.

27 **PART 1**

28 **INTERAGENCY CLEAN ENERGY SITING COORDINATING COUNCIL**

29 NEW SECTION. **Sec. 101.** INTERAGENCY CLEAN ENERGY SITING
30 COORDINATING COUNCIL. (1) The interagency clean energy siting
31 coordinating council is created. The coordinating council is
32 cochaired by the department of commerce and the department of ecology
33 with participation from the following:

34 (a) The office of the governor;

35 (b) The energy facility site evaluation council;

36 (c) The department of fish and wildlife;

37 (d) The department of agriculture;

38 (e) The governor's office of Indian affairs;

- 1 (f) The department of archaeology and historic preservation;
- 2 (g) The department of natural resources;
- 3 (h) The department of transportation;
- 4 (i) The utilities and transportation commission;
- 5 (j) The governor's office for regulatory innovation and
- 6 assistance;
- 7 (k) Staff from the environmental justice council; and
- 8 (l) Other state and federal agencies invited by the department of
- 9 commerce and the department of ecology with key roles in siting clean
- 10 energy to participate on an ongoing or ad hoc basis.

11 (2) The department of commerce and department of ecology shall
12 assign staff in each agency to lead the coordinating council's work
13 and provide ongoing updates to the governor and appropriate
14 committees of the legislature, including those with jurisdiction over
15 the environment, energy, or economic development policy.

16 (3) For purposes of this section and section 102 of this act,
17 "coordinating council" means the interagency clean energy siting
18 coordinating council created in this section.

19 NEW SECTION. **Sec. 102.** INTERAGENCY CLEAN ENERGY SITING
20 COORDINATING COUNCIL DUTIES. (1) The responsibilities of the
21 coordinating council include, but are not limited to:

22 (a) Identifying actions to improve siting and permitting of clean
23 energy projects as defined in section 201 of this act, including
24 through review of the recommendations of the department of ecology
25 and department of commerce's 2022 *Low Carbon Energy Facility Siting*
26 *Improvement Report*, creating implementation plans and timelines, and
27 making recommendations for needed funding or policy changes;

28 (b) Tracking federal government efforts to improve clean energy
29 project siting and permitting, including potential federal funding
30 sources, and identifying state agency actions to improve coordination
31 across state, local, and federal processes or to pursue supportive
32 funding;

33 (c) Conducting outreach to parties with interests in clean energy
34 siting and permitting for ongoing input on how to improve state
35 agency processes and actions;

36 (d) Establishing work groups as needed to focus on specific
37 energy types such as solar, wind, battery storage, or emerging
38 technologies, or specific geographies for clean energy project
39 siting;

1 (e) The creation of advisory committees deemed necessary to
2 inform the development of items identified in (a) through (d) of this
3 subsection;

4 (f) Supporting the governor's office of Indian affairs in
5 creating and updating annually, or when requested by a federally
6 recognized Indian tribe, a list of contacts at federally recognized
7 Indian tribes, applicable tribal laws on consultation from federally
8 recognized Indian tribes, and tribal preferences regarding outreach
9 about clean energy project siting and permitting, such as outreach by
10 developers directly, by state government in the government-to-
11 government relationship, or both;

12 (g) Supporting the department of archaeology and historic
13 preservation, the governor's office of Indian affairs, the department
14 of commerce, and the energy facility site evaluation council in
15 developing and providing to clean energy project developers a
16 training on consultation and engagement processes for federally
17 recognized Indian tribes. The governor's office of Indian affairs
18 must collaborate with federally recognized Indian tribes in the
19 development of the training;

20 (h) Supporting the department of archaeology and historic
21 preservation in updating the statewide predictive archaeological
22 model to provide clean energy project developers information about
23 where archaeological resources are likely to be found and the
24 potential need for archaeological investigations; and

25 (i) Supporting and promptly providing information to the
26 department of ecology in support of the nonproject reviews required
27 under section 303 of this act.

28 (2) The coordinating council shall provide an annual report
29 beginning October 1, 2024, to the governor and the appropriate
30 committees of the legislature summarizing: Progress on efficient,
31 effective, and responsible siting and permitting of clean energy
32 projects; areas of additional work, including where clean energy
33 project siting and permitting outcomes are not broadly recognized as
34 efficient, effective, or responsible; resource needs; recommendations
35 for future nonproject environmental impact statements for categories
36 of clean energy projects; and any needed policy changes to help
37 achieve the deployment of clean energy necessary to meet the state's
38 statutory greenhouse gas emissions limits, chapter 70A.45 RCW, and
39 the clean energy transformation act requirements, chapter 19.405 RCW,

1 and to support achieving the state energy strategy adopted by the
2 department of commerce.

3 (3) The coordinating council shall:

4 (a) Advise the department of commerce in:

5 (i) Contracting with an external, independent third party to:

6 (A) Carry out an evaluation of state agency siting and permitting
7 processes for clean energy projects and related federal and state
8 regulatory requirements, including the energy facility site
9 evaluation council permitting process authorized in chapter 80.50
10 RCW;

11 (B) Identify successful models used in other states for the
12 siting and permitting of projects similar to clean energy projects,
13 including local and state government programs to prepare build ready
14 clean energy sites; and

15 (C) Develop recommendations for improving these processes,
16 including potential policy changes and funding, with the goal of more
17 efficient, effective siting of clean energy projects; and

18 (ii) Reporting on the evaluation and recommendations in (a)(i) of
19 this subsection to the governor and the legislature by July 1, 2024;

20 (b) Pursue development of a consolidated clean energy application
21 similar to the joint aquatic resources permit application for, at a
22 minimum, state permits needed for clean energy projects. The
23 department of ecology shall lead this effort and engage with federal
24 agencies and local governments to explore inclusion of federal and
25 local permit applications as part of the consolidated application.
26 The department may design a single consolidated application for
27 multiple clean energy project types, may design separate applications
28 for individual clean energy technologies, or may design an
29 application for related resources. The department of ecology shall
30 provide an update on its development of consolidated permit
31 applications for clean energy projects to the governor and
32 legislature by December 31, 2024. The consolidated permit application
33 process must be available, but not required, for clean energy
34 projects;

35 (c) Explore development of a consolidated permit for clean energy
36 projects. The department of ecology shall lead this effort and, in
37 consultation with federally recognized Indian tribes, explore options
38 including a clean energy project permit that consolidates department
39 of ecology permits only, or that consolidates permits from multiple
40 state and local agencies. The permit structure must identify criteria

1 or conditions that must be met for projects to use the consolidated
2 permit. The department of ecology may analyze criteria or conditions
3 as part of a nonproject review under chapter 43.21C RCW. The
4 department of ecology shall update the legislature on its evaluation
5 of consolidated permit options and make recommendations by October 1,
6 2024;

7 (d) Determine priorities for categories of clean energy projects
8 to be the focus of new nonproject environmental impact statements
9 under chapter 43.21C RCW for the legislature to fund subsequent to
10 the nonproject environmental impact statements specified in section
11 302 of this act; and

12 (e) Consider and provide recommendations to the legislature on
13 additional benefits that could be provided to projects designated as
14 clean energy projects of statewide significance under section 203 of
15 this act.

16 PART 2

17 CLEAN ENERGY PROJECTS OF STATEWIDE SIGNIFICANCE AND CLEAN ENERGY 18 COORDINATED PERMITTING PROCESS

19 NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this
20 section apply throughout this chapter unless the context clearly
21 requires otherwise.

22 (1) "Alternative energy resource" has the same meaning as defined
23 in RCW 80.50.020.

24 (2) "Alternative jet fuel" means a fuel that can be blended and
25 used with conventional petroleum jet fuels without the need to modify
26 aircraft engines and existing fuel distribution infrastructure and
27 that meets the greenhouse gas emissions reduction requirements that
28 apply to biomass-derived fuels as defined in RCW 70A.65.010.
29 "Alternative jet fuel" includes jet fuels derived from coprocessed
30 feedstocks at a conventional petroleum refinery.

31 (3) "Applicant" means a person applying to the department of
32 commerce for designation of a development project as a clean energy
33 project of statewide significance under this chapter.

34 (4) (a) "Associated facilities" means storage, transmission,
35 handling, or other related and supporting facilities connecting a
36 clean energy project with the existing energy supply, processing, or
37 distribution system including, but not limited to, battery energy
38 storage communications, controls, mobilizing or maintenance

1 equipment, instrumentation, and other types of ancillary storage and
2 transmission equipment, off-line storage or venting required for
3 efficient operation or safety of the transmission system and
4 overhead, and surface or subsurface lines of physical access for the
5 inspection, maintenance, and safe operations of the transmission
6 facility and new transmission lines constructed to operate at nominal
7 voltages of at least 115,000 volts to connect a clean energy project
8 to the northwest power grid.

9 (b) Common carrier railroads or motor vehicles are not associated
10 facilities.

11 (5) "Clean energy product manufacturing facility" means a
12 facility or a project at any facility that exclusively or primarily
13 manufactures the following products or components primarily used by
14 such products:

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

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

21 (c) Renewable or green electrolytic hydrogen, including preparing
22 renewable or green electrolytic hydrogen for distribution as an
23 energy carrier or manufacturing feedstock, or converting it to a
24 green hydrogen carrier;

25 (d) Equipment and products used to produce energy from
26 alternative energy resources;

27 (e) Equipment and products used to produce nonemitting electric
28 generation as defined in RCW 19.405.020;

29 (f) Equipment and products used at storage facilities;

30 (g) Equipment and products used to improve energy efficiency;

31 (h) Semiconductors or semiconductor materials as defined in RCW
32 82.04.2404; and

33 (i) Projects or facility upgrades undertaken by emissions-
34 intensive, trade-exposed industries as classified in RCW 70A.65.110
35 for which the facility can demonstrate expected reductions in overall
36 facility greenhouse gas emissions to align with the cap trajectory
37 under chapter 70A.65 RCW, where the project does not degrade local
38 air quality.

39 (6) "Clean energy project" means the following facilities
40 together with their associated facilities:

- 1 (a) Clean energy product manufacturing facilities;
- 2 (b) Electrical transmission facilities;
- 3 (c) Facilities to produce nonemitting electric generation or
4 electric generation from renewable resources, as defined in RCW
5 19.405.020, except for:
- 6 (i) Hydroelectric generation that includes new diversions, new
7 impoundments, new bypass reaches, or the expansion of existing
8 reservoirs constructed after May 7, 2019, unless the diversions,
9 bypass reaches, or reservoir expansions are necessary for the
10 operation of a pumped storage facility that: (A) Does not conflict
11 with existing state or federal fish recovery plans; and (B) complies
12 with all local, state, and federal laws and regulations; and
- 13 (ii) Hydroelectric generation associated with facilities or
14 persons that have been the subject of an enforcement action, penalty
15 order, or settled any enforcement action or penalty order with any
16 agreement to pay a penalty or pay for or conduct mitigation under
17 chapter 90.48 or 77.55 RCW during the preceding 15 years that
18 resulted in the payment of a penalty of at least \$100,000 or
19 conducting mitigation with a value of at least \$100,000;
- 20 (d) Storage facilities;
- 21 (e) Facilities or projects at any facilities that exclusively or
22 primarily process biogenic feedstocks into biofuel as defined in RCW
23 80.50.020;
- 24 (f) Biomass energy facilities as defined in RCW 19.405.020; or
- 25 (g) Facilities or projects at any facilities that exclusively or
26 primarily process alternative jet fuel.
- 27 (7) "Electrical transmission facilities" has the same meaning as
28 defined in RCW 80.50.020, except excluding electrical transmission
29 facilities that primarily or solely serve facilities that generate
30 electricity from fossil fuels.
- 31 (8) "Fully coordinated permit process" means a comprehensive
32 coordinated permitting assistance approach supported by a written
33 agreement between the project proponent, the department of ecology,
34 and the participating agencies.
- 35 (9) "Fully coordinated project" means a clean energy project
36 subject to the fully coordinated permit process.
- 37 (10) "Green electrolytic hydrogen" has the same meaning as
38 defined in RCW 80.50.020.
- 39 (11) "Green hydrogen carrier" has the same meaning as defined in
40 RCW 80.50.020.

1 (12) "Overburdened community" has the same meaning as defined in
2 RCW 70A.02.010.

3 (13) "Permit" means any permit, license, certificate, use
4 authorization, or other form of governmental review or approval
5 required in order to construct, expand, or operate a project in the
6 state of Washington.

7 (14) "Permit agency" means any state or local agency authorized
8 by law to issue permits.

9 (15) "Project proponent" means a person, business, or any entity
10 applying for or seeking a permit or permits in the state of
11 Washington.

12 (16) "Reasonable costs" means direct and indirect expenses
13 incurred by the department of ecology, participating agencies, or
14 local governments in carrying out the coordinated permit process
15 established in this chapter, including the initial assessment,
16 environmental review, and permitting. "Reasonable costs" includes
17 work done by agency or local government staff or consultants hired by
18 agencies or local governments to carry out the work plan. "Reasonable
19 costs" may also include other costs agreed to between the applicant
20 and the department of ecology, participating agencies, or local
21 governments.

22 (17) "Renewable hydrogen" has the same meaning as defined in RCW
23 80.50.020.

24 (18) "Renewable natural gas" has the same meaning as defined in
25 RCW 80.50.020.

26 (19) "Renewable resource" has the same meaning as defined in RCW
27 80.50.020.

28 (20) "Storage facility" has the same meaning as defined in RCW
29 80.50.020.

30 NEW SECTION. **Sec. 202.** CLEAN ENERGY PROJECTS OF STATEWIDE
31 SIGNIFICANCE—APPLICATION PROCESS. (1) The department of commerce
32 shall develop an application for the designation of clean energy
33 projects as clean energy projects of statewide significance.

34 (2) An application to the department of commerce by an applicant
35 under this section must include:

36 (a) Information regarding the location of the project;

37 (b) Information sufficient to demonstrate that the project
38 qualifies as a clean energy project;

1 (c) An explanation of how the project is expected to contribute
2 to the state's achievement of the greenhouse gas emission limits in
3 chapter 70A.45 RCW and is consistent with the state energy strategy
4 adopted by the department of commerce, as well as any contribution
5 that the project is expected to make to other state regulatory
6 requirements for clean energy and greenhouse gas emissions, including
7 the requirements of chapter 19.405, 70A.30, 70A.60, 70A.65, 70A.535,
8 or 70A.540 RCW;

9 (d) An explanation of how the project is expected to contribute
10 to the state's economic development goals, including information
11 regarding the applicant's average employment in the state for the
12 prior year, estimated new employment related to the project,
13 estimated wages of employees related to the project, and estimated
14 time schedules for completion and operation;

15 (e) A plan for engagement and information sharing with
16 potentially affected federally recognized Indian tribes;

17 (f) A description of potential community benefits and impacts
18 from the project, a plan for community engagement in the project
19 development, and an explanation of how the applicant might use a
20 community benefit agreement or other legal document that stipulates
21 the benefits that the developer agrees to fund or furnish, in
22 exchange for community support of a project; and

23 (g) Other information required by the department of commerce.

24 NEW SECTION. **Sec. 203.** CLEAN ENERGY PROJECTS OF STATEWIDE
25 SIGNIFICANCE—DEPARTMENT OF COMMERCE DECISION. (1)(a) The department
26 of commerce, in consultation with natural resources agencies and
27 other state agencies identified as likely to have a role in siting or
28 permitting a project, must review applications received under section
29 202 of this act. Within 14 business days of receiving the
30 application, the department of commerce must mail or provide in
31 person a written determination that the application is complete, or
32 if the application is incomplete, an opportunity to meet with the
33 department of commerce to determine what is necessary to make the
34 application complete. Within seven business days after an applicant
35 has submitted additional information identified by the department of
36 commerce as being necessary for a complete application, the
37 department of commerce must notify the applicant whether the
38 application is complete or what additional information is necessary.

1 (b) When the application is complete, the director of the
2 department of commerce must determine within 60 business days whether
3 to designate an applicant's project as a clean energy project of
4 statewide significance.

5 (c) A determination of completeness does not preclude the
6 department of commerce from requesting additional information if new
7 information is required or substantial changes in the proposed
8 project occur.

9 (2) The department of commerce may designate a clean energy
10 project of statewide significance taking into consideration:

11 (a) Whether the project qualifies as a clean energy project;

12 (b) Whether the project will: Contribute to achieving state
13 emission reduction limits under chapter 70A.45 RCW; be consistent
14 with the state energy strategy adopted by the department of commerce;
15 contribute to achieving other state requirements for clean energy and
16 greenhouse gas emissions reductions; and support the state's economic
17 development goals;

18 (c) Whether the level of applicant need for coordinated state
19 assistance, including for siting and permitting and the complexity of
20 the project, warrants the designation of a project;

21 (d) Whether the project is proposed for an area or for a clean
22 energy technology that has been reviewed through a nonproject
23 environmental review process, or least-conflict siting process
24 including, but not limited to, the processes identified in sections
25 303 and 306 of this act, and whether the project is consistent with
26 the recommendations of such processes;

27 (e) Whether the project is anticipated to have potential near-
28 term or long-term significant positive or adverse impacts on
29 environmental and public health, including impacts to:

30 (i) State or federal endangered species act listed species in
31 Washington;

32 (ii) Overburdened communities; and

33 (iii) Rights, interests, and resources, including tribal cultural
34 resources, of potentially affected federally recognized Indian
35 tribes; and

36 (f) Input received from potentially affected federally recognized
37 Indian tribes, which the department must solicit and acknowledge the
38 receipt of.

39 (3) In determining whether to approve an application, the
40 department of commerce must consider information contained in an

1 application under section 202 of this act demonstrating an
2 applicant's tribal outreach and engagement, engagement with the
3 department of archaeology and historic preservation, and engagement
4 with the governor's office of Indian affairs.

5 (4) (a) The department of commerce may designate an unlimited
6 number of projects of statewide significance that meet the criteria
7 of this section.

8 (b) An applicant whose application to the department of commerce
9 under this chapter is not successful is eligible to reapply.

10 NEW SECTION. **Sec. 204.** CLEAN ENERGY COORDINATED PERMITTING
11 PROCESS—DEPARTMENT OF ECOLOGY DUTIES. An optional, fully coordinated
12 permit process is established for clean energy projects that do not
13 apply to the energy facility site evaluation council under chapter
14 80.50 RCW. In support of the coordinated permitting process for clean
15 energy projects, the department of ecology must:

16 (1) Act as the central point of contact for the project proponent
17 for the coordinated permitting process for projects that do not apply
18 to the energy facility site evaluation council under chapter 80.50
19 RCW and communicate with the project proponent about defined issues;

20 (2) Conduct an initial assessment of the proposed project review
21 and permitting actions for coordination purposes as provided in
22 section 205 of this act;

23 (3) Ensure that the project proponent has been informed of all
24 the information needed to apply for the state and local permits that
25 are included in the coordinated permitting process;

26 (4) Facilitate communication between project proponents and
27 agency staff to promote timely permit decisions and promote adherence
28 to agreed schedules;

29 (5) Verify completion among participating agencies of
30 administrative review and permit procedures, such as providing public
31 notice;

32 (6) Assist in resolving any conflict or inconsistency among
33 permit requirements and conditions;

34 (7) Consult with potentially affected federally recognized Indian
35 tribes as provided in section 209 of this act in support of the
36 coordinated permitting process;

37 (8) Engage with potentially affected overburdened communities as
38 provided in section 209 of this act;

39 (9) Manage a fully coordinated permitting process; and

1 (10) Coordinate with local jurisdictions to assist with
2 fulfilling the requirements of chapter 36.70B RCW and other local
3 permitting processes.

4 NEW SECTION. **Sec. 205.** CLEAN ENERGY COORDINATED PERMITTING
5 PROCESS INITIAL ASSESSMENT. (1) Upon the request of a proponent of a
6 clean energy project, the department of ecology must conduct an
7 initial assessment to determine the level of coordination needed,
8 taking into consideration the complexity of the project and the
9 experience of those expected to be involved in the project
10 application and review process.

11 (2) The initial project assessment must consider the complexity,
12 size, and need for assistance of the project and must address as
13 appropriate:

14 (a) The expected type of environmental review;

15 (b) The state and local permits or approvals that are anticipated
16 to be required for the project;

17 (c) The permit application forms and other application
18 requirements of the participating permit agencies;

19 (d) The anticipated information needs and issues of concern of
20 each participating agency; and

21 (e) The anticipated time required for the environmental review
22 process under chapter 43.21C RCW and permit decisions by each
23 participating agency, including the estimated time required to
24 determine if the permit applications are complete, to conduct the
25 environmental review under chapter 43.21C RCW, and conduct permitting
26 processes for each participating agency. In determining the estimated
27 time required, full consideration must be given to achieving the
28 greatest possible efficiencies through any concurrent studies and any
29 consolidated applications, hearings, and comment periods.

30 (3) The outcome of the initial assessment must be documented in
31 writing, furnished to the project proponent, and be made available to
32 the public.

33 (4) The initial assessment must be completed within 60 days of
34 the clean energy project proponent's request to the department under
35 this section, unless information on the project is not complete.

36 NEW SECTION. **Sec. 206.** CLEAN ENERGY COORDINATED PERMITTING
37 PROCESS REQUIREMENTS AND PROCEDURES. (1) A project proponent may
38 submit a written request to the department of ecology pursuant to

1 section 208 of this act and a local government development agreement
2 to support local government actions pursuant to section 207 of this
3 act for participation in a fully coordinated permitting process. To
4 be eligible to participate in the fully coordinated permit process:

5 (a) The project proponent must:

6 (i) Enter into a cost-reimbursement agreement pursuant to section
7 208 of this act;

8 (ii) Provide sufficient information on the project and project
9 site to identify probable significant adverse environmental impacts;

10 (iii) Provide information on any voluntary mitigation measures;
11 and

12 (iv) Provide information on engagement actions taken by the
13 proponent with federally recognized Indian tribes, local government,
14 and overburdened communities; and

15 (b) The department of ecology must determine that the project
16 raises complex coordination, permit processing, or substantive permit
17 review issues.

18 (2) A project proponent who requests designation as a fully
19 coordinated project must provide the department of ecology with a
20 complete description of the project. The department of ecology may
21 request any information from the project proponent that is necessary
22 to make the designation under this section and may convene a meeting
23 of the likely participating permit agencies.

24 (3) For a fully coordinated permitting process, the department of
25 ecology must serve as the main point of contact for the project
26 proponent and participating agencies with regard to coordinating the
27 permitting process for the project as a whole. Each participating
28 permit agency must designate a single point of contact for
29 coordinating with the department of ecology. The department of
30 ecology must keep a schedule identifying required procedural steps in
31 the permitting process and highlighting substantive issues as
32 appropriate that must be resolved in order for the project to move
33 forward. In carrying out these responsibilities, the department of
34 ecology must:

35 (a) Conduct the duties for the coordinated permitting process as
36 described in section 205 of this act;

37 (b) (i) Reach out to tribal or federal jurisdictions responsible
38 for issuing a permit for the project and invite them to participate
39 in the coordinated permitting process or to receive periodic updates
40 of the project;

1 (ii) Reach out to local jurisdictions responsible for issuing a
2 permit for the project and inform them of their obligations under
3 section 207 of this act.

4 (4) Within 30 days, or longer with agreement of the project
5 proponent, of the date that the department of ecology determines a
6 project is eligible for the fully coordinated permitting process, the
7 department of ecology shall convene a work plan meeting with the
8 project proponent, local government, and the participating permit
9 agencies to develop a coordinated permitting process schedule. The
10 work plan meeting agenda may include any of the following:

11 (a) Review of the permits that are anticipated for the project;

12 (b) A review of the permit application forms and other
13 application requirements of the agencies that are participating in
14 the coordinated permitting process;

15 (c) An estimation of the timelines that will be used by each
16 participating permit agency to make permit decisions, including the
17 estimated time periods required to determine if the permit
18 applications are complete and to review or respond to each
19 application or submittal of new information. In the development of
20 this timeline, full attention must be given to achieving the maximum
21 efficiencies possible through concurrent studies and consolidated
22 applications, hearings, and comment periods; or

23 (d) An estimation of reasonable costs for the department of
24 ecology, participating agencies, and the county, city, or town in
25 which the project is proposed for environmental review and
26 permitting, based on known information about the project.

27 (5) Each participating agency and the lead agency under chapter
28 43.21C RCW must send at least one representative qualified to discuss
29 the applicability and timelines associated with all permits
30 administered by that agency or jurisdiction to the work plan meeting.
31 The department of ecology must notify any relevant federal agency or
32 potentially affected federally recognized Indian tribe of the date of
33 the meeting and invite them to participate in the process.

34 (6) Any accelerated time period for the consideration of a permit
35 application or for the completion of the environmental review process
36 under chapter 43.21C RCW must be consistent with any statute, rule,
37 or regulation, or adopted state policy, standard, or guideline that
38 requires the participation of other agencies, federally recognized
39 Indian tribes, or interested persons in the application process.

1 (7) Upon the completion of the work plan meeting under subsection
2 (4) of this section, the department of ecology must finalize the
3 coordinated permitting process schedule, share it in writing with the
4 project proponent, participating state agencies, lead agencies under
5 chapter 43.21C RCW, and cities and counties subject to an agreement
6 specified in section 207 of this act, and make the schedule available
7 to the public.

8 (8) As part of the coordinated permit process, the developer may
9 prepare a community benefit agreement or other similar document to
10 identify how to mitigate potential community impacts or impacts to
11 tribal rights and resources, including cultural resources. The
12 agreement should include benefits in addition to jobs or tax revenues
13 resulting from the project. Approval of any benefit agreement or
14 other legal document stipulating the benefits that the developer
15 agrees to fund or furnish, in exchange for community or tribal
16 government support of the project, must be made by the local
17 government legislative authority of the county, city, or town in
18 which the project is proposed or by the relevant federally recognized
19 Indian tribal government.

20 (9) If a lead agency under chapter 43.21C RCW, a permit agency,
21 or the project proponent foresees, at any time, that it will be
22 unable to meet the estimated timelines or other obligations under the
23 schedule agreement, it must notify the department of ecology of the
24 reasons for the delay and offer potential solutions or an amended
25 timeline. The department of ecology must notify the participating
26 agencies and the project proponent and, upon agreement of all
27 parties, adjust the schedule or, if necessary, schedule another work
28 plan meeting.

29 (10) The project proponent may withdraw from the coordinated
30 permitting process by submitting to the department of ecology a
31 written request that the process be terminated. Upon receipt of the
32 request, the department of ecology must notify each participating
33 agency that a coordinated permitting process is no longer applicable
34 to the project.

35 (11)(a) Permitting decisions made by state and local
36 jurisdictions under the fully coordinated permitting process in this
37 chapter are considered final, subject to any appeals process
38 available to applicants or other parties. Applicants utilizing the
39 fully coordinated permitting process in this chapter are not eligible

1 for permitting under chapter 80.50 RCW unless a substantial change is
2 made to the proposed project.

3 (b) Prior to considering an application under chapter 80.50 RCW
4 from a project applicant that has previously used the fully
5 coordinated permitting process under this chapter for the project,
6 the energy facility site evaluation council must determine that the
7 project applicant has made a substantial change to the project,
8 relative to the project as it was proposed under the fully
9 coordinated permitting process.

10 NEW SECTION. **Sec. 207.** CLEAN ENERGY COORDINATED PERMITTING
11 PROCESS—LOCAL JURISDICTION AGREEMENTS. (1)(a) Counties and cities
12 with clean energy projects that are determined to be eligible for the
13 fully coordinated permit process shall enter into an agreement with
14 the department of ecology or with the project proponents of clean
15 energy projects for expediting the completion of projects.

16 (b) For the purposes of this section, "expedite" means that a
17 county or city will develop and implement a method to accelerate the
18 process for permitting and environmental review. Expediting should
19 not disrupt or otherwise delay the permitting and environmental
20 review of other projects or require the county or city to incur
21 additional costs that are not compensated.

22 (2) Agreements required by this section must include requirements
23 that the county or city coordinate with the department of ecology and
24 conduct environmental review and permitting to align with the work
25 plan described in section 206(4) of this act and:

26 (a) Expedite permit processing for the design and construction of
27 the project;

28 (b) Expedite environmental review processing;

29 (c) Expedite processing of requests for street, right-of-way, or
30 easement vacations necessary for the construction of the project;

31 (d) Develop and follow a plan for consultation with potentially
32 affected federally recognized Indian tribes; and

33 (e) Carry out such other actions identified by the department of
34 ecology as needed for the fully coordinated permitting process.

35 NEW SECTION. **Sec. 208.** CLEAN ENERGY COORDINATED PERMITTING
36 PROCESS—COST-REIMBURSEMENT AGREEMENTS. (1) For a fully coordinated
37 permitting process, a project proponent must enter into a cost-
38 reimbursement agreement with the department of ecology in accordance

1 with RCW 43.21A.690. The cost-reimbursement agreement is to recover
2 reasonable costs incurred by the department of ecology and
3 participating agencies in carrying out the coordinated permitting
4 process.

5 (2) The cost-reimbursement agreement may include deliverables and
6 schedules for invoicing and reimbursement.

7 (3) For a fully coordinated permitting process, a project
8 proponent must enter into a development agreement with the county,
9 city, or town in which the project is proposed, in accordance with
10 the authorization and requirements in RCW 36.70B.170 through
11 36.70B.210. The development agreement must detail the obligations of
12 the local jurisdiction and the project applicant. It must also
13 include, but not be limited to, the process the county, city, or town
14 will implement for meeting its obligation to expedite the
15 application, other clarifications for project phasing, and an
16 estimate of reasonable costs.

17 (4) For a fully coordinated permitting process, a project
18 proponent may enter directly into a cost-reimbursement agreement
19 similar to that described in subsection (1) of this section, to
20 reimburse the costs of a federally recognized Indian tribe for
21 reviewing and providing input on the siting and permitting of a clean
22 energy project.

23 (5) If a project proponent foresees, at any time, that it will be
24 unable to meet its obligations under the agreement, it must notify
25 the department of ecology and state the reasons, along with proposals
26 for resolution.

27 NEW SECTION. **Sec. 209.** CLEAN ENERGY COORDINATED PERMITTING
28 PROCESS—TRIBAL CONSULTATION AND OVERBURDENED COMMUNITY ENGAGEMENT.

29 (1)(a) The department of ecology must offer early, meaningful, and
30 individual consultation with any affected federally recognized Indian
31 tribe on designated clean energy projects participating in the
32 coordinated permitting process for the purpose of understanding
33 potential impacts to tribal rights, interests, and resources,
34 including tribal cultural resources, archaeological sites, sacred
35 sites, fisheries, or other rights and interests in tribal lands and
36 lands within which an Indian tribe or tribes possess rights reserved
37 or protected by federal treaty, statute, or executive order. The
38 consultation is independent of, and in addition to, any public
39 participation process required by state law, or by a state agency.

1 The goal of the consultation process is to support the coordinated
2 permitting process by early identification of tribal rights,
3 interests, and resources, including tribal cultural resources,
4 potentially affected by the project, and identifying solutions, when
5 possible, to avoid, minimize, or mitigate any adverse effects on
6 tribal rights, interests, or resources, including tribal cultural
7 resources, based on environmental or permit reviews.

8 (b) At the earliest possible date after the initiation of the
9 coordinated permitting process under this chapter, the department of
10 ecology shall engage in a preapplication process with all affected
11 federally recognized Indian tribes potentially impacted by the
12 project.

13 (i) The department of ecology must notify the department of
14 archaeology and historic preservation, the department of fish and
15 wildlife, and all affected federally recognized Indian tribes
16 potentially impacted by the project. The notification must include
17 geographical location, detailed scope of the proposed project,
18 preliminary proposed project details available to federal, state, or
19 local governmental jurisdictions, and all publicly available
20 materials.

21 (ii) The department of ecology must also offer to discuss the
22 project with the department of archaeology and historic preservation,
23 the department of fish and wildlife, and all affected federally
24 recognized Indian tribes potentially impacted by the project. Any
25 resultant discussions must include the project's impact to tribal
26 rights, interests, and resources, including tribal cultural
27 resources, archaeological sites, sacred sites, fisheries, or other
28 rights and interests in tribal lands and lands within which a tribe
29 or tribes possess rights reserved or protected by federal treaty,
30 statute, or executive order.

31 (iii) All affected federally recognized Indian tribes may submit
32 to the department of ecology a summary of tribal issues, questions,
33 concerns, or other statements regarding the project, which must
34 become part of the official files maintained by the department of
35 ecology for the coordinated permitting process. The summary does not
36 limit what issues affected federally recognized Indian tribes may
37 raise in the consultation process.

38 (iv) The notification and offer to initiate discussion must be
39 documented by the department of ecology and delivered to the
40 department of archaeology and historic preservation, the department

1 of fish and wildlife, and to the affected federally recognized Indian
2 tribe or tribes. If the discussions pursuant to (b)(ii) of this
3 subsection do not occur, the department of ecology must document the
4 reason why the discussion or discussions did not occur.

5 (v) Nothing in this section may be interpreted to require the
6 disclosure of information that is exempt from disclosure pursuant to
7 RCW 42.56.300 or federal law, including section 304 of the national
8 historic preservation act of 1966. Any information that is exempt
9 from disclosure pursuant to RCW 42.56.300 or federal law, including
10 section 304 of the national historic preservation act of 1966, shall
11 not become part of publicly available coordinated permitting process
12 files.

13 (2) The department of ecology must identify overburdened
14 communities, as defined in RCW 70A.02.010, which may be potentially
15 affected by clean energy projects participating in the coordinated
16 permitting process. The department of ecology must verify these
17 communities have been meaningfully engaged in the regulatory
18 processes in a timely manner by participating agencies and their
19 comments considered for determining potential impacts.

20 NEW SECTION. **Sec. 210.** MISCELLANEOUS. (1) Nothing in this
21 chapter:

22 (a) Prohibits an applicant, a project proponent, a state agency,
23 a local government, or a federally recognized Indian tribe from
24 entering into a nondisclosure agreement to protect confidential
25 business information, trade secrets, financial information, or other
26 proprietary information;

27 (b) Limits or affects other statutory provisions specific to any
28 state agency related to that agency's procedures and protocols
29 related to the identification, designation, or disclosure of
30 information identified as confidential business information, trade
31 secrets, financial information, or other proprietary information;

32 (c) Limits or affects the provisions of chapter 42.56 RCW as they
33 apply to information or nondisclosure agreements obtained by a state
34 agency under this chapter; or

35 (d) Relieves the responsible official under chapter 43.21C RCW
36 for an action of the official's responsibilities under that chapter.

37 (2) The decisions by the department of commerce to designate a
38 clean energy project of statewide significance must be made available
39 to the public. Regardless of any exemptions otherwise set forth in

1 RCW 42.56.270, publicly shared information must include the
2 designee's name, a brief description of the project, the intended
3 project location, a description of climate and economic development
4 benefits to the state and communities therein, a tribal engagement
5 plan, a community engagement plan, and a community benefit agreement
6 if applicable.

7 (3) The department of commerce may terminate a designation of a
8 clean energy project of statewide significance for reasons that
9 include, but are not limited to, failure to comply with requirements
10 of the designation or the emergence of new information that
11 significantly alters the department of commerce's assessment of the
12 applicant's application, project, or project proponent. The
13 department of commerce must notify the applicant, project proponent,
14 and the department of ecology of the termination in writing within 30
15 days.

16 (4) Nothing in this chapter affects the jurisdiction of the
17 energy facility site evaluation council under chapter 80.50 RCW.

18 (5) This chapter does not limit or abridge the powers and duties
19 granted to a participating permit agency under the law or laws that
20 authorizes or requires the agency to issue a permit for a project.
21 Each participating permit agency retains its authority to make all
22 decisions on all substantive matters with regard to the respective
23 component permit that is within its scope of its responsibility
24 including, but not limited to, the determination of permit
25 application completeness, permit approval or approval with
26 conditions, or permit denial.

27 NEW SECTION. **Sec. 211.** A new section is added to chapter 80.50
28 RCW to read as follows:

29 Applicants utilizing the fully coordinated permitting process
30 under chapter 43.--- RCW (the new chapter created in section 402 of
31 this act) are not eligible for permitting under this chapter unless a
32 substantial change is made to the proposed project. Prior to
33 considering an application under this chapter from a project
34 applicant that has previously used the fully coordinated permitting
35 process under chapter 43.--- RCW (the new chapter created in section
36 402 of this act) for that project, the council must determine that
37 the project applicant has made a substantial change to the project,
38 relative to the project as it was proposed under the fully
39 coordinated permitting process.

1 environmental impact consistent with RCW 43.21C.033, the lead agency
2 must notify the project applicant and explain in writing the basis
3 for its anticipated determination of significance. Prior to issuing
4 the threshold determination of significance, the lead agency must
5 give the project applicant the option of withdrawing and revising its
6 application and the associated environmental checklist. The lead
7 agency shall make its threshold determination based upon the changed
8 or clarified application and associated environmental checklist. The
9 responsible official has no more than 30 days from the date of the
10 resubmission of a clarified or changed application to make a
11 threshold determination, unless the applicant makes material changes
12 that substantially modify the impact of the proposal, in which case
13 the responsible official must treat the resubmitted clarified or
14 changed application as new, and is subject to the timelines
15 established in RCW 43.21C.033.

16 (b) The notification required under (a) of this subsection is not
17 an official determination by the lead agency and is not subject to
18 appeal under this chapter.

19 (c) Nothing in this subsection amends the requirements of RCW
20 43.21C.033 as they apply to proposals that are not for clean energy
21 projects and nothing in this subsection precludes the lead agency
22 from allowing an applicant for a proposal that is not a clean energy
23 project to follow application processes similar to or the same as the
24 application processes identified in this subsection.

25 (3) (a) When an environmental impact statement is required, a lead
26 agency shall prepare a final environmental impact statement for clean
27 energy projects within 24 months of a threshold determination of a
28 probable significant, adverse environmental impact.

29 (b) A lead agency may work with clean energy project applicants
30 to set or extend a time limit longer than 24 months under (a) of this
31 subsection, provided the:

32 (i) Applicant agrees to a longer time limit; and

33 (ii) Responsible official for the lead agency maintains an
34 updated schedule available for public review.

35 (c) For all clean energy projects that require the preparation of
36 an environmental impact statement, the lead agency shall work
37 collaboratively with applicants and all agencies that will have
38 actions requiring review under this chapter to develop a schedule
39 that shall:

1 (i) Include a list of, and roles and responsibilities for, all
2 entities that have actions requiring review under this chapter for
3 the project;

4 (ii) Include a comprehensive schedule of dates by which review
5 under this chapter will be completed, all actions requiring review
6 under this chapter will be taken, and the public will have an
7 opportunity to participate;

8 (iii) Be completed within 60 days of issuance of a determination
9 of significance;

10 (iv) Be updated as needed, but no later than 30 days of missing a
11 date on the schedule; and

12 (v) Be available for public review on the state environmental
13 policy act register.

14 (d) A lead agency may fulfill its responsibilities under this
15 subsection with a coordinated project plan prepared pursuant to 42
16 U.S.C. Sec. 4370m-2(c)(1) if it includes all dates identified under
17 (c)(ii) of this subsection.

18 (e) A failure to comply with the requirements in this subsection
19 is not subject to appeal and does not provide a basis for the
20 invalidation of the review by an agency under this chapter. Nothing
21 in this subsection creates any civil liability for an agency or
22 creates a new cause of action against an agency.

23 (f) For clean energy projects, the provisions of this subsection
24 are in addition to the requirements of RCW 43.21C.0311.

25 (4) This subsection provides clarifications on the content of
26 review under this chapter specific to clean energy projects.

27 (a) In defining the proposal that is the subject of review under
28 this chapter, a lead agency may not combine the evaluation of a clean
29 energy project proposal with other proposals unless the:

30 (i) Proposals are closely related; or

31 (ii) Applicant agrees to combining the proposals' evaluation.

32 (b) An agency with authority to impose mitigation under RCW
33 43.21C.060 may require mitigation measures for clean energy projects
34 only to address the environmental impacts that are attributable to
35 and caused by a proposal.

36 NEW SECTION. **Sec. 302.** A new section is added to chapter 43.21C
37 RCW to read as follows:

38 NONPROJECT ENVIRONMENTAL IMPACT STATEMENTS. (1) The department of
39 ecology shall prepare nonproject environmental impact statements,

1 pursuant to RCW 43.21C.030, that assess and disclose the probable
2 significant adverse environmental impacts, and that identify related
3 mitigation measures, for each of the following categories of clean
4 energy projects, and colocated battery energy storage projects that
5 may be included in such projects:

6 (a) Green electrolytic or renewable hydrogen projects;

7 (b) Utility-scale solar energy projects, which will consider the
8 findings of the Washington State University least-conflict solar
9 siting process; and

10 (c) Onshore utility-scale wind energy projects.

11 (2) The scope of a nonproject environmental review shall be
12 limited to the probable, significant adverse environmental impacts in
13 geographic areas that are suitable for the applicable clean energy
14 type. The department of ecology may consider standard attributes for
15 likely development, proximity to existing transmission or
16 complementary facilities, and planned corridors for transmission
17 capacity construction, reconstruction, or enlargement. The nonproject
18 review is not required to evaluate geographic areas that lack the
19 characteristics necessary for the applicable clean energy project
20 type.

21 (3)(a) The scope of nonproject environmental impact statements
22 must consider, as appropriate, analysis of the following probable
23 significant adverse environmental impacts, including direct,
24 indirect, and cumulative impacts to:

25 (i) Historic and cultural resources;

26 (ii) Species designated for protection under RCW 77.12.020 or the
27 federal endangered species act;

28 (iii) Landscape scale habitat connectivity and wildlife migration
29 corridors;

30 (iv) Environmental justice and overburdened communities as
31 defined in RCW 70A.02.010;

32 (v) Cultural resources and elements of the environment relevant
33 to tribal rights, interests, and resources including tribal cultural
34 resources, and fish, wildlife, and their habitat;

35 (vi) Land uses, including agricultural and ranching uses; and

36 (vii) Military installations and operations.

37 (b) The nonproject environmental impact statements must identify
38 measures to avoid, minimize, and mitigate probable significant
39 adverse environmental impacts identified during the review. These
40 include measures to mitigate probable significant adverse

1 environmental impacts to elements of the environment as defined in
2 WAC 197-11-444 as it existed as of January 1, 2023, tribal rights,
3 interests, and resources, including tribal cultural resources, as
4 identified in RCW 70A.65.305, and overburdened communities as defined
5 in RCW 70A.02.010. The department of ecology shall consult with
6 federally recognized Indian tribes and other agencies with expertise
7 in identification and mitigation of probable, significant adverse
8 environmental impacts including, but not limited to, the department
9 of fish and wildlife. The department of ecology shall further specify
10 when probable, significant adverse environmental impacts cannot be
11 mitigated.

12 (4) In defining the scope of nonproject review of clean energy
13 projects, the department of ecology shall request input from
14 agencies, federally recognized Indian tribes, industry, stakeholders,
15 local governments, and the public to identify the geographic areas
16 suitable for the applicable clean energy project type, based on the
17 climatic and geophysical attributes conducive to or required for
18 project development. The department of ecology will provide
19 opportunities for the engagement of tribes, overburdened communities,
20 and stakeholders that self-identify an interest in participating in
21 the processes.

22 (5) The department of ecology will offer early and meaningful
23 consultation with any affected federally recognized Indian tribe on
24 the nonproject review under this section for the purpose of
25 understanding potential impacts to tribal rights and resources,
26 including tribal cultural resources, archaeological sites, sacred
27 sites, fisheries, or other rights and interests in tribal lands and
28 lands within which an Indian tribe or tribes possess rights reserved
29 or protected by federal treaty, statute, or executive order. Certain
30 information obtained by the department of ecology under this section
31 is exempt from disclosure consistent with RCW 42.56.300.

32 (6) Final nonproject environmental review documents for the clean
33 energy projects identified in subsection (1) of this section, where
34 applicable, shall include maps identifying probable, significant
35 adverse environmental impacts for the resources evaluated. Maps must
36 be prepared with the intention to illustrate probable, significant
37 impacts, creating a tool that may be used by project proponents,
38 tribes, and government to inform decision making. The maps may not be
39 used in the place of surveys on specific parcels of land or input of

1 a potentially affected federally recognized Indian tribe regarding
2 specific parcels.

3 (7) Following the completion of a nonproject review subject to
4 this section, the interagency clean energy siting coordinating
5 council created in section 101 of this act must consider the findings
6 and make recommendations to the legislature and governor on potential
7 areas to designate as clean energy preferred zones for the clean
8 energy project technology analyzed, and any taxation, regulatory,
9 environmental review, or other benefits that should accrue to
10 projects in such designated preferred zones.

11 (8) Nothing in this section prohibits or precludes projects from
12 being located outside areas designated as clean energy preferred
13 zones.

14 NEW SECTION. **Sec. 303.** A new section is added to chapter 43.21C
15 RCW to read as follows:

16 LEAD AGENCY USE OF NONPROJECT ENVIRONMENTAL IMPACT STATEMENT. (1)
17 A lead agency conducting a project-level environmental review under
18 this chapter of a clean energy project identified in section 302(1)
19 of this act must consider a nonproject environmental impact statement
20 prepared pursuant to section 302 of this act in order to identify and
21 mitigate project-level probable significant adverse environmental
22 impacts.

23 (2)(a) Project-level environmental review conducted pursuant to
24 this chapter of a clean energy project identified in section 302(1)
25 of this act must begin with review of the applicable nonproject
26 environmental impact statement prepared pursuant to section 302 of
27 this act. The review must address any probable significant adverse
28 environmental impacts associated with the proposal that were not
29 analyzed in the nonproject environmental impact statements prepared
30 pursuant to section 302 of this act. The review must identify any
31 mitigation measures specific to the project for probable significant
32 adverse environmental impacts.

33 (b) Lead agencies reviewing site-specific project proposals for
34 clean energy projects under this chapter shall use the nonproject
35 review described in this section through one of the following methods
36 and in accordance with WAC 197-11-600, as it existed as of January 1,
37 2023:

38 (i) Use of the nonproject review unchanged, in accordance with
39 RCW 43.21C.034, if the project does not cause any probable

1 significant adverse environmental impact not identified in the
2 nonproject review;

3 (ii) Preparation of an addendum;

4 (iii) Incorporation by reference; or

5 (iv) Preparation of a supplemental environmental impact
6 statement.

7 (3) Clean energy project proposals following the recommendations
8 developed in the nonproject environment review completed pursuant to
9 section 302 of this act must be considered to have mitigated the
10 probable significant adverse project-specific environmental impacts
11 under this chapter for which recommendations were specifically
12 developed unless the project-specific environmental review identifies
13 project-level probable significant adverse environmental impacts not
14 addressed in the nonproject environmental review.

15 NEW SECTION. **Sec. 304.** A new section is added to chapter 36.70B
16 RCW to read as follows:

17 PROHIBITION ON DEMONSTRATION OF NEED. During project review of a
18 project to construct or improve facilities for the generation,
19 transmission, or distribution of electricity, a local government may
20 not require a project applicant to demonstrate the necessity or
21 utility of the project other than to require, as part of a completed
22 application under RCW 36.70B.070(2), submission of any publicly
23 available documentation required by the federal energy regulatory
24 commission or its delegees or the utilities and transportation
25 commission or its delegees, or from any other federal agency with
26 regulatory authority over the assessment of electric power
27 transmission and distribution needs as applicable.

28 NEW SECTION. **Sec. 305.** A new section is added to chapter 36.01
29 RCW to read as follows:

30 A county may not prohibit the installation of wind and solar
31 resource evaluation equipment necessary for the design and
32 environmental planning of a renewable energy project.

33 NEW SECTION. **Sec. 306.** IDENTIFYING INFORMATION FOR PUMPED
34 STORAGE SITING. (1) The Washington State University energy program
35 shall conduct a process to identify issues and interests related to
36 siting pumped storage projects in Washington state, to support
37 expanded capacity to store intermittently produced renewable energy,

1 such as from wind and solar, as part of the state's transition from
2 fossil fuel to 100 percent clean energy. The Washington State
3 University energy program may decide to include within the process's
4 scope the colocation of pumped storage with wind or solar energy
5 generation. The goal of the process is to identify and understand
6 issues and interests of various stakeholders and federally recognized
7 Indian tribes related to areas where pumped storage might be sited,
8 providing useful information to developers of potential projects, and
9 for subsequent environmental reviews under the state environmental
10 policy act.

11 (2) In carrying out this process, the Washington State University
12 energy program shall provide ample opportunities for the engagement
13 of federally recognized Indian tribes, local governments and special
14 purpose districts, land use and environmental organizations, and
15 additional stakeholders that self-identify as interested in
16 participating in the process.

17 (3) The Washington State University energy program must develop
18 and make available a map and associated GIS data layers, highlighting
19 areas identified through the process.

20 (4) Any information provided by tribes will help to inform the
21 map product, but the Washington State University energy program may
22 not include sensitive tribal information, as identified by federally
23 recognized Indian tribes, in the publicly available map or GIS data
24 layers. The information developed by this process and creation of the
25 map under this section does not supplant the need for project
26 developers to conduct early and individual outreach to federally
27 recognized Indian tribes and other affected communities. The
28 Washington State University energy program must take precautions to
29 prevent disclosure of any sensitive tribal information it receives
30 during the process, consistent with RCW 42.56.300.

31 (5) The pumped storage siting information process must be
32 completed by June 30, 2025.

33 NEW SECTION. **Sec. 307.** (1)(a) The department must consult with
34 stakeholders from rural communities, agriculture, natural resource
35 management and conservation, and forestry to gain a better
36 understanding of the benefits and impacts of anticipated changes in
37 the state's energy system, including the siting of facilities under
38 the jurisdiction of the energy facility site evaluation council, and
39 to identify risks and opportunities for rural communities. This

1 consultation must be conducted in compliance with the community
2 engagement plan developed by the department under chapter 70A.02 RCW
3 and with input from the environmental justice council, using the best
4 recommended practices available at the time. The department must
5 collect the best available information and learn from the lived
6 experiences of people in rural communities, with the objective of
7 improving state implementation of clean energy policies, including
8 the siting of energy facilities under the jurisdiction of the energy
9 facility site evaluation council, in ways that protect and improve
10 life in rural Washington. The department must consult with an array
11 of rural community members, including: Low-income community and
12 vulnerable population members or representatives; legislators; local
13 elected officials and staff; those involved with agriculture,
14 forestry, and natural resource management and conservation; renewable
15 energy project property owners; utilities; large energy consumers;
16 and others.

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

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

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

26 (ii) Production of hydrogen, biofuels, and feedstocks for clean
27 fuels;

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

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

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

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

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

39 (2) (a) The department must complete a report on rural clean
40 energy and resilience that takes into consideration the consultation

1 with rural stakeholders as described in subsection (1) of this
2 section. The report must include recommendations for how policies,
3 projects, and investment programs, including energy facility siting
4 through the energy facility site evaluation council, can be developed
5 or amended to more equitably distribute costs and benefits to rural
6 communities. The report must include an assessment of how to improve
7 the total benefits to rural areas overall, as well as the equitable
8 distribution of benefits and costs within rural communities.

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

12 (i) Direct, indirect, and induced jobs in construction and
13 operations;

14 (ii) Financial returns to property owners;

15 (iii) Effects on local tax revenues and public services, which
16 must include whether any school districts had a net loss of resources
17 from diminished local effort assistance payments required under
18 chapter 28A.500 RCW and impacts to public safety, the 911 emergency
19 communications system, mental health, criminal justice, and rural
20 county roads;

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

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

25 (vi) Potential forms of economic development assistance and
26 impact mitigation payments; and

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

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

34 (d) By December 1, 2024, 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 and the appropriate policy and fiscal committees of the
38 legislature.

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

1 **Sec. 308.** 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. 309.** 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. 310.** (1) The committee shall review the
15 report produced by the department of commerce under section 307 of
16 this act and consider any policy or budget recommendations to reduce
17 impacts and increase benefits of the clean energy transition for
18 rural communities, including mechanisms to support local tax revenues
19 and public services.

20 (2) The committee must hold at least two meetings, at least one
21 of which must be in eastern Washington. The first meeting of the
22 committee must occur by September 30, 2023.

23 (3) Relevant state agencies, departments, and commissions,
24 including the energy facility site evaluation council, shall
25 cooperate with the committee and provide information as the chair
26 reasonably requests.

27 (4) The committee shall report its findings and any
28 recommendations to the energy facility site evaluation council and
29 the committees of the legislature with jurisdiction over environment
30 and energy laws by December 1, 2024. Recommendations of the committee
31 may be made by a simple majority of committee members. In the event
32 that the committee does not reach majority-supported recommendations,
33 the committee may report minority findings supported by at least two
34 members of the committee.

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

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

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

3 (6) This section expires June 30, 2025.

4 **PART 4**

5 **MISCELLANEOUS PROVISIONS**

6 NEW SECTION. **Sec. 401.** Sections 101 and 102 of this act
7 constitute a new chapter in Title 43 RCW.

8 NEW SECTION. **Sec. 402.** Sections 201 through 210 of this act
9 constitute a new chapter in Title 43 RCW.

10 NEW SECTION. **Sec. 403.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected."

E2SHB 1216 - S COMM AMD
By Committee on Ways & Means

ADOPTED AND ENGROSSED 04/08/2023

14 On page 1, line 1 of the title, after "siting;" strike the
15 remainder of the title and insert "amending RCW 44.39.010 and
16 44.39.012; adding a new section to chapter 80.50 RCW; adding new
17 sections to chapter 43.21C RCW; adding a new section to chapter
18 36.70B RCW; adding a new section to chapter 36.01 RCW; adding new
19 chapters to Title 43 RCW; creating new sections; prescribing
20 penalties; and providing an expiration date."

--- END ---