

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

ADOPTED AS AMENDED 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 faster than the rate of decline of
37 free allowances allocated to emissions-intensive, trade-exposed
38 industries under chapter 70A.65 RCW and assist in meeting compliance
39 obligations under chapter 70A.65 RCW.

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

3 (a) Clean energy product manufacturing facilities;

4 (b) Electrical transmission facilities;

5 (c) Facilities to produce nonemitting electric generation or
6 electric generation from renewable resources, as defined in RCW
7 19.405.020, except for:

8 (i) Hydroelectric generation that includes new diversions, new
9 impoundments, new bypass reaches, or the expansion of existing
10 reservoirs constructed after May 7, 2019, unless the diversions,
11 bypass reaches, or reservoir expansions are necessary for the
12 operation of a pumped storage facility that: (A) Does not conflict
13 with existing state or federal fish recovery plans; and (B) complies
14 with all local, state, and federal laws and regulations; and

15 (ii) Hydroelectric generation associated with facilities or
16 persons that have been the subject of an enforcement action, penalty
17 order, or settled any enforcement action or penalty order with any
18 agreement to pay a penalty or pay for or conduct mitigation under
19 chapter 90.48 or 77.55 RCW during the preceding 15 years that
20 resulted in the payment of a penalty of at least \$100,000 or
21 conducting mitigation with a value of at least \$100,000;

22 (d) Storage facilities;

23 (e) Facilities or projects at any facilities that exclusively or
24 primarily process biogenic feedstocks into biofuel as defined in RCW
25 80.50.020;

26 (f) Biomass energy facilities as defined in RCW 19.405.020; or

27 (g) Facilities or projects at any facilities that exclusively or
28 primarily process alternative jet fuel.

29 (7) "Electrical transmission facilities" has the same meaning as
30 defined in RCW 80.50.020, except excluding electrical transmission
31 facilities that primarily or solely serve facilities that generate
32 electricity from fossil fuels.

33 (8) "Fully coordinated permit process" means a comprehensive
34 coordinated permitting assistance approach supported by a written
35 agreement between the project proponent, the department of ecology,
36 and the participating agencies.

37 (9) "Fully coordinated project" means a clean energy project
38 subject to the fully coordinated permit process.

39 (10) "Green electrolytic hydrogen" has the same meaning as
40 defined in RCW 80.50.020.

1 (11) "Green hydrogen carrier" has the same meaning as defined in
2 RCW 80.50.020.

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

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

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

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

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

24 (17) "Renewable hydrogen" has the same meaning as defined in RCW
25 80.50.020.

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

28 (19) "Renewable resource" has the same meaning as defined in RCW
29 80.50.020.

30 (20) "Storage facility" has the same meaning as defined in RCW
31 80.50.020.

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

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

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

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

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

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

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

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

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

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

1 department of commerce must notify the applicant whether the
2 application is complete or what additional information is necessary.

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

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

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

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

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

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

23 (d) Whether the project is proposed for an area or for a clean
24 energy technology that has been reviewed through a nonproject
25 environmental review process, or least-conflict siting process
26 including, but not limited to, the processes identified in sections
27 303 and 306 of this act, and whether the project is consistent with
28 the recommendations of such processes;

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

32 (i) State or federal endangered species act listed species in
33 Washington;

34 (ii) Overburdened communities; and

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

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

1 (3) In determining whether to approve an application, the
2 department of commerce must consider information contained in an
3 application under section 202 of this act demonstrating an
4 applicant's tribal outreach and engagement, engagement with the
5 department of archaeology and historic preservation, and engagement
6 with the governor's office of Indian affairs.

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

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

12 NEW SECTION. **Sec. 204.** CLEAN ENERGY COORDINATED PERMITTING
13 PROCESS—DEPARTMENT OF ECOLOGY DUTIES. An optional, fully coordinated
14 permit process is established for clean energy projects that do not
15 apply to the energy facility site evaluation council under chapter
16 80.50 RCW. In support of the coordinated permitting process for clean
17 energy projects, the department of ecology must:

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

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

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

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

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

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

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

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

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

4 (10) Coordinate with local jurisdictions to assist with
5 fulfilling the requirements of chapter 36.70B RCW and other local
6 permitting processes.

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

14 (2) The initial project assessment must consider the complexity,
15 size, and need for assistance of the project and must address as
16 appropriate:

17 (a) The expected type of environmental review;

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

20 (c) The permit application forms and other application
21 requirements of the participating permit agencies;

22 (d) The anticipated information needs and issues of concern of
23 each participating agency; and

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

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

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

1 NEW SECTION. **Sec. 206.** CLEAN ENERGY COORDINATED PERMITTING
2 PROCESS REQUIREMENTS AND PROCEDURES. (1) A project proponent may
3 submit a written request to the department of ecology pursuant to
4 section 208 of this act and a local government development agreement
5 to support local government actions pursuant to section 207 of this
6 act for participation in a fully coordinated permitting process. To
7 be eligible to participate in the fully coordinated permit process:

8 (a) The project proponent must:

9 (i) Enter into a cost-reimbursement agreement pursuant to section
10 208 of this act;

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

13 (iii) Provide information on any voluntary mitigation measures;
14 and

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

18 (b) The department of ecology must determine that the project
19 raises complex coordination, permit processing, or substantive permit
20 review issues.

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

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

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

1 (b) (i) Reach out to tribal or federal jurisdictions responsible
2 for issuing a permit for the project and invite them to participate
3 in the coordinated permitting process or to receive periodic updates
4 of the project;

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

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

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

16 (b) A review of the permit application forms and other
17 application requirements of the agencies that are participating in
18 the coordinated permitting process;

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

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

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

38 (6) Any accelerated time period for the consideration of a permit
39 application or for the completion of the environmental review process
40 under chapter 43.21C RCW must be consistent with any statute, rule,

1 or regulation, or adopted state policy, standard, or guideline that
2 requires the participation of other agencies, federally recognized
3 Indian tribes, or interested persons in the application process.

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

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

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

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

38 (11)(a) Permitting decisions made by state and local
39 jurisdictions under the fully coordinated permitting process in this
40 chapter are considered final, subject to any appeals process

1 available to applicants or other parties. Applicants utilizing the
2 fully coordinated permitting process in this chapter are not eligible
3 for permitting under chapter 80.50 RCW unless a substantial change is
4 made to the proposed project.

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

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

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

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

28 (a) Expedite permit processing for the design and construction of
29 the project;

30 (b) Expedite environmental review processing;

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

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

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

37 NEW SECTION. **Sec. 208.** CLEAN ENERGY COORDINATED PERMITTING
38 PROCESS—COST-REIMBURSEMENT AGREEMENTS. (1) For a fully coordinated

1 permitting process, a project proponent must enter into a cost-
2 reimbursement agreement with the department of ecology in accordance
3 with RCW 43.21A.690. The cost-reimbursement agreement is to recover
4 reasonable costs incurred by the department of ecology and
5 participating agencies in carrying out the coordinated permitting
6 process.

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

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

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

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

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

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

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

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

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

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

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

1 (iv) The notification and offer to initiate discussion must be
2 documented by the department of ecology and delivered to the
3 department of archaeology and historic preservation, the department
4 of fish and wildlife, and to the affected federally recognized Indian
5 tribe or tribes. If the discussions pursuant to (b)(ii) of this
6 subsection do not occur, the department of ecology must document the
7 reason why the discussion or discussions did not occur.

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

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

23 NEW SECTION. **Sec. 210.** MISCELLANEOUS. (1) Nothing in this
24 chapter:

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

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

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

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

1 (2) The decisions by the department of commerce to designate a
2 clean energy project of statewide significance must be made available
3 to the public. Regardless of any exemptions otherwise set forth in
4 RCW 42.56.270, publicly shared information must include the
5 designee's name, a brief description of the project, the intended
6 project location, a description of climate and economic development
7 benefits to the state and communities therein, a tribal engagement
8 plan, a community engagement plan, and a community benefit agreement
9 if applicable.

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

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

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

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

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

1 the project applicant has made a substantial change to the project,
2 relative to the project as it was proposed under the fully
3 coordinated permitting process.

4 **Sec. 212.** RCW 80.50.140 and 1988 c 202 s 62 are each amended to
5 read as follows:

6 (1)(a) The following decisions are subject to judicial review
7 pursuant to the provisions of chapter 34.05 RCW and this section:

8 (i) A final decision pursuant to RCW 80.50.100 on an application
9 for certification ((shall be subject to judicial review pursuant to
10 provisions of chapter 34.05 RCW and this section)); or

11 (ii) A land use decision as defined in RCW 36.70C.020, a final
12 decision on a permit or other similar approval required under chapter
13 90.58 RCW, or any decision that would otherwise have been subject to
14 the jurisdiction of the pollution control hearings board under RCW
15 43.21B.110, and which is necessary for a clean energy project as
16 defined in section 201 of this act.

17 (b) Petitions for review of such a decision shall be filed in the
18 Thurston county superior court. All petitions for review of a
19 decision under RCW 80.50.100 or decision relating to any permit as
20 set forth in this subsection for a clean energy project as defined in
21 section 201 of this act shall be consolidated into a single
22 proceeding before the Thurston county superior court. The Thurston
23 county superior court shall certify the petition for review to the
24 supreme court upon the following conditions:

25 ~~((a))~~ (i) Review can be made on the administrative record;

26 ~~((b))~~ (ii) Fundamental and urgent interests affecting the
27 public interest and development of energy facilities are involved
28 which require a prompt determination;

29 ~~((c))~~ (iii) Review by the supreme court would likely be sought
30 regardless of the determination of the Thurston county superior
31 court; and

32 ~~((d))~~ (iv) The record is complete for review.

33 The Thurston county superior court shall assign a petition for
34 review of a decision under RCW 80.50.100 or a decision relating to
35 any permit as set forth in this subsection (1) for a clean energy
36 project as defined in section 201 of this act for hearing at the
37 earliest possible date and shall expedite such petition in every way
38 possible. If the court finds that review cannot be limited to the
39 administrative record as set forth in ((subparagraph (a))) (b)(i) of

1 this subsection because there are alleged irregularities in the
2 procedure before the council or other permitting authority not found
3 in the record, but finds that the standards set forth in
4 (~~(subparagraphs)~~) (b) (~~(, (c), and (d))~~) (ii), (iii), and (iv) of this
5 subsection are met, the court shall proceed to take testimony and
6 determine such factual issues raised by the alleged irregularities
7 and certify the petition and its determination of such factual issues
8 to the supreme court. Upon certification, the supreme court shall
9 assign the petition for hearing at the earliest possible date, and it
10 shall expedite its review and decision in every way possible.

11 (2) Objections raised by any party in interest concerning
12 procedural error by the council shall be filed with the council
13 within (~~(sixty)~~) 60 days of the commission of such error, or within
14 (~~(thirty)~~) 30 days of the first public hearing or meeting of the
15 council at which the general subject matter to which the error is
16 related is discussed, whichever comes later, or such objection shall
17 be deemed waived for purposes of judicial review as provided in this
18 section.

19 (3) The rules and regulations adopted by the council shall be
20 subject to judicial review pursuant to the provisions of chapter
21 34.05 RCW.

22 **Sec. 213.** RCW 36.70C.030 and 2010 1st sp.s. c 7 s 38 are each
23 amended to read as follows:

24 (1) This chapter replaces the writ of certiorari for appeal of
25 land use decisions and shall be the exclusive means of judicial
26 review of land use decisions, except that this chapter does not apply
27 to:

28 (a) Judicial review of:

29 (i) Land use decisions made by bodies that are not part of a
30 local jurisdiction;

31 (ii) Land use decisions of a local jurisdiction that are subject
32 to review by a quasi-judicial body created by state law, such as the
33 shorelines hearings board or the growth management hearings board;

34 (b) Judicial review of applications for a writ of mandamus or
35 prohibition; (~~(or)~~)

36 (c) Claims provided by any law for monetary damages or
37 compensation. If one or more claims for damages or compensation are
38 set forth in the same complaint with a land use petition brought
39 under this chapter, the claims are not subject to the procedures and

1 standards, including deadlines, provided in this chapter for review
2 of the petition. The judge who hears the land use petition may, if
3 appropriate, preside at a trial for damages or compensation; or

4 (d) A land use decision relating to a clean energy project as
5 defined in section 201 of this act and subject to the review
6 proceedings set forth in RCW 80.50.140.

7 (2) The superior court civil rules govern procedural matters
8 under this chapter to the extent that the rules are consistent with
9 this chapter.

10 **Sec. 214.** RCW 90.58.180 and 2011 c 277 s 4 are each amended to
11 read as follows:

12 (1) Any person aggrieved by the granting, denying, or rescinding
13 of a permit on shorelines of the state pursuant to RCW 90.58.140 may
14 seek review from the shorelines hearings board by filing a petition
15 for review within (~~(twenty-one)~~) 21 days of the date of filing of the
16 decision as defined in RCW 90.58.140(6).

17 Within seven days of the filing of any petition for review with
18 the board as provided in this section pertaining to a final decision
19 of a local government, the petitioner shall serve copies of the
20 petition on the department, the office of the attorney general, and
21 the local government. The department and the attorney general may
22 intervene to protect the public interest and ensure that the
23 provisions of this chapter are complied with at any time within
24 fifteen days from the date of the receipt by the department or the
25 attorney general of a copy of the petition for review filed pursuant
26 to this section. The shorelines hearings board shall schedule review
27 proceedings on the petition for review without regard as to whether
28 the period for the department or the attorney general to intervene
29 has or has not expired.

30 (2) The department or the attorney general may obtain review of
31 any final decision granting a permit, or granting or denying an
32 application for a permit issued by a local government by filing a
33 written petition with the shorelines hearings board and the
34 appropriate local government within (~~(twenty-one)~~) 21 days from the
35 date the final decision was filed as provided in RCW 90.58.140(6).

36 (3) The review proceedings authorized in subsections (1) and (2)
37 of this section are subject to the provisions of chapter 34.05 RCW
38 pertaining to procedures in adjudicative proceedings. Judicial review
39 of such proceedings of the shorelines hearings board is governed by

1 chapter 34.05 RCW. The board shall issue its decision on the appeal
2 authorized under subsections (1) and (2) of this section within (~~one~~
3 ~~hundred eighty~~) 180 days after the date the petition is filed with
4 the board or a petition to intervene is filed by the department or
5 the attorney general, whichever is later. The time period may be
6 extended by the board for a period of (~~thirty~~) 30 days upon a
7 showing of good cause or may be waived by the parties.

8 (4) Any person may appeal any rules, regulations, or guidelines
9 adopted or approved by the department within (~~thirty~~) 30 days of
10 the date of the adoption or approval. The board shall make a final
11 decision within sixty days following the hearing held thereon.

12 (5) The board shall find the rule, regulation, or guideline to be
13 valid and enter a final decision to that effect unless it determines
14 that the rule, regulation, or guideline:

15 (a) Is clearly erroneous in light of the policy of this chapter;
16 or

17 (b) Constitutes an implementation of this chapter in violation of
18 constitutional or statutory provisions; or

19 (c) Is arbitrary and capricious; or

20 (d) Was developed without fully considering and evaluating all
21 material submitted to the department during public review and
22 comment; or

23 (e) Was not adopted in accordance with required procedures.

24 (6) If the board makes a determination under subsection (5)(a)
25 through (e) of this section, it shall enter a final decision
26 declaring the rule, regulation, or guideline invalid, remanding the
27 rule, regulation, or guideline to the department with a statement of
28 the reasons in support of the determination, and directing the
29 department to adopt, after a thorough consultation with the affected
30 local government and any other interested party, a new rule,
31 regulation, or guideline consistent with the board's decision.

32 (7) A decision of the board on the validity of a rule,
33 regulation, or guideline shall be subject to review in superior
34 court, if authorized pursuant to chapter 34.05 RCW. A petition for
35 review of the decision of the shorelines hearings board on a rule,
36 regulation, or guideline shall be filed within (~~thirty~~) 30 days
37 after the date of final decision by the shorelines hearings board.

38 (8) The review proceedings authorized in subsections (1) and (2)
39 of this section do not apply to any decision required under this
40 chapter relating to a clean energy project as defined in section 201

1 of this act and subject to the review proceedings set forth in RCW
2 80.50.140.

3 **Sec. 215.** RCW 43.21B.110 and 2022 c 180 s 812 are each amended
4 to read as follows:

5 (1) The hearings board shall only have jurisdiction to hear and
6 decide appeals from the following decisions of the department, the
7 director, local conservation districts, the air pollution control
8 boards or authorities as established pursuant to chapter 70A.15 RCW,
9 local health departments, the department of natural resources, the
10 department of fish and wildlife, the parks and recreation commission,
11 and authorized public entities described in chapter 79.100 RCW:

12 (a) Civil penalties imposed pursuant to RCW 18.104.155,
13 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
14 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
15 70A.65.200, 70A.455.090, 76.09.170, 77.55.440, 78.44.250, 88.46.090,
16 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

17 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
18 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
19 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250,
20 90.48.120, and 90.56.330.

21 (c) Except as provided in RCW 90.03.210(2), the issuance,
22 modification, or termination of any permit, certificate, or license
23 by the department or any air authority in the exercise of its
24 jurisdiction, including the issuance or termination of a waste
25 disposal permit, the denial of an application for a waste disposal
26 permit, the modification of the conditions or the terms of a waste
27 disposal permit, or a decision to approve or deny an application for
28 a solid waste permit exemption under RCW 70A.205.260.

29 (d) Decisions of local health departments regarding the grant or
30 denial of solid waste permits pursuant to chapter 70A.205 RCW.

31 (e) Decisions of local health departments regarding the issuance
32 and enforcement of permits to use or dispose of biosolids under RCW
33 70A.226.090.

34 (f) Decisions of the department regarding waste-derived
35 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
36 decisions of the department regarding waste-derived soil amendments
37 under RCW 70A.205.145.

38 (g) Decisions of local conservation districts related to the
39 denial of approval or denial of certification of a dairy nutrient

1 management plan; conditions contained in a plan; application of any
2 dairy nutrient management practices, standards, methods, and
3 technologies to a particular dairy farm; and failure to adhere to the
4 plan review and approval timelines in RCW 90.64.026.

5 (h) Any other decision by the department or an air authority
6 which pursuant to law must be decided as an adjudicative proceeding
7 under chapter 34.05 RCW.

8 (i) Decisions of the department of natural resources, the
9 department of fish and wildlife, and the department that are
10 reviewable under chapter 76.09 RCW, and the department of natural
11 resources' appeals of county, city, or town objections under RCW
12 76.09.050(7).

13 (j) Forest health hazard orders issued by the commissioner of
14 public lands under RCW 76.06.180.

15 (k) Decisions of the department of fish and wildlife to issue,
16 deny, condition, or modify a hydraulic project approval permit under
17 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
18 comply, to issue a civil penalty, or to issue a notice of intent to
19 disapprove applications.

20 (l) Decisions of the department of natural resources that are
21 reviewable under RCW 78.44.270.

22 (m) Decisions of an authorized public entity under RCW 79.100.010
23 to take temporary possession or custody of a vessel or to contest the
24 amount of reimbursement owed that are reviewable by the hearings
25 board under RCW 79.100.120.

26 (n) Decisions of the department of ecology that are appealable
27 under RCW 70A.245.020 to set recycled minimum postconsumer content
28 for covered products or to temporarily exclude types of covered
29 products in plastic containers from minimum postconsumer recycled
30 content requirements.

31 (o) Orders by the department of ecology under RCW 70A.455.080.

32 (2) The following hearings shall not be conducted by the hearings
33 board:

34 (a) Hearings required by law to be conducted by the shorelines
35 hearings board pursuant to chapter 90.58 RCW.

36 (b) Hearings conducted by the department pursuant to RCW
37 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
38 70A.15.3110, and 90.44.180.

39 (c) Appeals of decisions by the department under RCW 90.03.110
40 and 90.44.220.

1 (d) Hearings conducted by the department to adopt, modify, or
2 repeal rules.

3 (3) Review of rules and regulations adopted by the hearings board
4 shall be subject to review in accordance with the provisions of the
5 administrative procedure act, chapter 34.05 RCW.

6 (4) Notwithstanding subsections (1) through (3) of this section,
7 the hearings board does not have jurisdiction to hear and decide
8 appeals involving any matter under this section if the matter is
9 related to a clean energy project as defined in section 201 of this
10 act. The review proceedings set forth in RCW 80.50.140 apply to
11 matters listed in this section but which involve clean energy
12 projects as defined in section 201 of this act.

13 **PART 3**

14 **PERMITTING AND ENVIRONMENTAL REVIEW PROVISIONS FOR CLEAN ENERGY**
15 **PROJECTS**

16 NEW SECTION. Sec. 301. A new section is added to chapter 43.21C
17 RCW to read as follows:

18 SEPA CLEAN ENERGY FACILITIES. (1) The definitions in this
19 subsection apply throughout this section unless the context clearly
20 requires otherwise.

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

23 (b) "Alternative jet fuel" has the same meaning as defined in
24 section 201 of this act.

25 (c) "Associated facilities" has the same meaning as defined in
26 section 201 of this act.

27 (d) "Clean energy product manufacturing facility" has the same
28 meaning as defined in section 201 of this act.

29 (e) "Clean energy project" has the same meaning as defined in
30 section 201 of this act.

31 (f) "Closely related proposals" means proposals that:

32 (i) Cannot or will not proceed unless the other proposals, or
33 parts of proposals, are implemented simultaneously with them; or

34 (ii) Are interdependent parts of a larger proposal and depend on
35 the larger proposal as their justification or for their
36 implementation.

37 (g) "Green electrolytic hydrogen" has the same meaning as defined
38 in RCW 80.50.020.

1 (h) "Green hydrogen carrier" has the same meaning as defined in
2 RCW 80.50.020.

3 (i) "Renewable hydrogen" has the same meaning as defined in RCW
4 80.50.020.

5 (j) "Renewable natural gas" has the same meaning as defined in
6 RCW 80.50.020.

7 (k) "Renewable resource" has the same meaning as defined in RCW
8 80.50.020.

9 (l) "Storage facility" has the same meaning as defined in RCW
10 80.50.020.

11 (2)(a) After the submission of an environmental checklist and
12 prior to issuing a threshold determination that a clean energy
13 project proposal is likely to cause a probable significant adverse
14 environmental impact consistent with RCW 43.21C.033, the lead agency
15 must notify the project applicant and explain in writing the basis
16 for its anticipated determination of significance. Prior to issuing
17 the threshold determination of significance, the lead agency must
18 give the project applicant the option of withdrawing and revising its
19 application and the associated environmental checklist. The lead
20 agency shall make its threshold determination based upon the changed
21 or clarified application and associated environmental checklist. The
22 responsible official has no more than 30 days from the date of the
23 resubmission of a clarified or changed application to make a
24 threshold determination, unless the applicant makes material changes
25 that substantially modify the impact of the proposal, in which case
26 the responsible official must treat the resubmitted clarified or
27 changed application as new, and is subject to the timelines
28 established in RCW 43.21C.033.

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

32 (c) Nothing in this subsection amends the requirements of RCW
33 43.21C.033 as they apply to proposals that are not for clean energy
34 projects and nothing in this subsection precludes the lead agency
35 from allowing an applicant for a proposal that is not a clean energy
36 project to follow application processes similar to or the same as the
37 application processes identified in this subsection.

38 (3)(a) When an environmental impact statement is required, a lead
39 agency shall prepare a final environmental impact statement for clean

1 energy projects within 24 months of a threshold determination of a
2 probable significant, adverse environmental impact.

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

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

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

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

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

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

21 (iii) Be completed within 60 days of issuance of a determination
22 of significance;

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

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

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

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

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

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

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

4 (i) Proposals are closely related; or

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

6 (b) An agency with authority to impose mitigation under RCW
7 43.21C.060 may require mitigation measures for clean energy projects
8 only to address the environmental impacts that are attributable to
9 and caused by a proposal.

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

12 NONPROJECT ENVIRONMENTAL IMPACT STATEMENTS. (1) The department of
13 ecology shall prepare nonproject environmental impact statements,
14 pursuant to RCW 43.21C.030, that assess and disclose the probable
15 significant adverse environmental impacts, and that identify related
16 mitigation measures, for each of the following categories of clean
17 energy projects, and colocated battery energy storage projects that
18 may be included in such projects:

19 (a) Green electrolytic or renewable hydrogen projects;

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

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

24 (2) The scope of a nonproject environmental review shall be
25 limited to the probable, significant adverse environmental impacts in
26 geographic areas that are suitable for the applicable clean energy
27 type. The department of ecology may consider standard attributes for
28 likely development, proximity to existing transmission or
29 complementary facilities, and planned corridors for transmission
30 capacity construction, reconstruction, or enlargement. The nonproject
31 review is not required to evaluate geographic areas that lack the
32 characteristics necessary for the applicable clean energy project
33 type.

34 (3) (a) The scope of nonproject environmental impact statements
35 must consider, as appropriate, analysis of the following probable
36 significant adverse environmental impacts, including direct,
37 indirect, and cumulative impacts to:

38 (i) Historic and cultural resources;

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

3 (iii) Landscape scale habitat connectivity and wildlife migration
4 corridors;

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

7 (v) Cultural resources and elements of the environment relevant
8 to tribal rights, interests, and resources including tribal cultural
9 resources, and fish, wildlife, and their habitat;

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

11 (vii) Military installations and operations.

12 (b) The nonproject environmental impact statements must identify
13 measures to avoid, minimize, and mitigate probable significant
14 adverse environmental impacts identified during the review. These
15 include measures to mitigate probable significant adverse
16 environmental impacts to elements of the environment as defined in
17 WAC 197-11-444 as it existed as of January 1, 2023, tribal rights,
18 interests, and resources, including tribal cultural resources, as
19 identified in RCW 70A.65.305, and overburdened communities as defined
20 in RCW 70A.02.010. The department of ecology shall consult with
21 federally recognized Indian tribes and other agencies with expertise
22 in identification and mitigation of probable, significant adverse
23 environmental impacts including, but not limited to, the department
24 of fish and wildlife. The department of ecology shall further specify
25 when probable, significant adverse environmental impacts cannot be
26 mitigated.

27 (4) In defining the scope of nonproject review of clean energy
28 projects, the department of ecology shall request input from
29 agencies, federally recognized Indian tribes, industry, stakeholders,
30 local governments, and the public to identify the geographic areas
31 suitable for the applicable clean energy project type, based on the
32 climatic and geophysical attributes conducive to or required for
33 project development. The department of ecology will provide
34 opportunities for the engagement of tribes, overburdened communities,
35 and stakeholders that self-identify an interest in participating in
36 the processes.

37 (5) The department of ecology will offer early and meaningful
38 consultation with any affected federally recognized Indian tribe on
39 the nonproject review under this section for the purpose of
40 understanding potential impacts to tribal rights and resources,

1 including tribal cultural resources, archaeological sites, sacred
2 sites, fisheries, or other rights and interests in tribal lands and
3 lands within which an Indian tribe or tribes possess rights reserved
4 or protected by federal treaty, statute, or executive order. Certain
5 information obtained by the department of ecology under this section
6 is exempt from disclosure consistent with RCW 42.56.300.

7 (6) Final nonproject environmental review documents for the clean
8 energy projects identified in subsection (1) of this section, where
9 applicable, shall include maps identifying probable, significant
10 adverse environmental impacts for the resources evaluated. Maps must
11 be prepared with the intention to illustrate probable, significant
12 impacts, creating a tool that may be used by project proponents,
13 tribes, and government to inform decision making. The maps may not be
14 used in the place of surveys on specific parcels of land or input of
15 a potentially affected federally recognized Indian tribe regarding
16 specific parcels.

17 (7) Following the completion of a nonproject review subject to
18 this section, the interagency clean energy siting coordinating
19 council created in section 101 of this act must consider the findings
20 and make recommendations to the legislature and governor on potential
21 areas to designate as clean energy preferred zones for the clean
22 energy project technology analyzed, and any taxation, regulatory,
23 environmental review, or other benefits that should accrue to
24 projects in such designated preferred zones.

25 (8) Nothing in this section prohibits or precludes projects from
26 being located outside areas designated as clean energy preferred
27 zones.

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

30 LEAD AGENCY USE OF NONPROJECT ENVIRONMENTAL IMPACT STATEMENT. (1)
31 A lead agency conducting a project-level environmental review under
32 this chapter of a clean energy project identified in section 302(1)
33 of this act must consider a nonproject environmental impact statement
34 prepared pursuant to section 302 of this act in order to identify and
35 mitigate project-level probable significant adverse environmental
36 impacts.

37 (2)(a) Project-level environmental review conducted pursuant to
38 this chapter of a clean energy project identified in section 302(1)
39 of this act must begin with review of the applicable nonproject

1 environmental impact statement prepared pursuant to section 302 of
2 this act. The review must address any probable significant adverse
3 environmental impacts associated with the proposal that were not
4 analyzed in the nonproject environmental impact statements prepared
5 pursuant to section 302 of this act. The review must identify any
6 mitigation measures specific to the project for probable significant
7 adverse environmental impacts.

8 (b) Lead agencies reviewing site-specific project proposals for
9 clean energy projects under this chapter shall use the nonproject
10 review described in this section through one of the following methods
11 and in accordance with WAC 197-11-600, as it existed as of January 1,
12 2023:

13 (i) Use of the nonproject review unchanged, in accordance with
14 RCW 43.21C.034, if the project does not cause any probable
15 significant adverse environmental impact not identified in the
16 nonproject review;

17 (ii) Preparation of an addendum;

18 (iii) Incorporation by reference; or

19 (iv) Preparation of a supplemental environmental impact
20 statement.

21 (3) Clean energy project proposals following the recommendations
22 developed in the nonproject environment review completed pursuant to
23 section 302 of this act must be considered to have mitigated the
24 probable significant adverse project-specific environmental impacts
25 under this chapter for which recommendations were specifically
26 developed unless the project-specific environmental review identifies
27 project-level probable significant adverse environmental impacts not
28 addressed in the nonproject environmental review.

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

31 PROHIBITION ON DEMONSTRATION OF NEED. During project review of a
32 project to construct or improve facilities for the generation,
33 transmission, or distribution of electricity, a local government may
34 not require a project applicant to demonstrate the necessity or
35 utility of the project other than to require, as part of a completed
36 application under RCW 36.70B.070(2), submission of any publicly
37 available documentation required by the federal energy regulatory
38 commission or its delegees or the utilities and transportation
39 commission or its delegees, or from any other federal agency with

1 regulatory authority over the assessment of electric power
2 transmission and distribution needs as applicable.

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

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

8 NEW SECTION. **Sec. 306.** IDENTIFYING INFORMATION FOR PUMPED
9 STORAGE SITING. (1) The Washington State University energy program
10 shall conduct a process to identify issues and interests related to
11 siting pumped storage projects in Washington state, to support
12 expanded capacity to store intermittently produced renewable energy,
13 such as from wind and solar, as part of the state's transition from
14 fossil fuel to 100 percent clean energy. The Washington State
15 University energy program may decide to include within the process's
16 scope the colocation of pumped storage with wind or solar energy
17 generation. The goal of the process is to identify and understand
18 issues and interests of various stakeholders and federally recognized
19 Indian tribes related to areas where pumped storage might be sited,
20 providing useful information to developers of potential projects, and
21 for subsequent environmental reviews under the state environmental
22 policy act.

23 (2) In carrying out this process, the Washington State University
24 energy program shall provide ample opportunities for the engagement
25 of federally recognized Indian tribes, local governments and special
26 purpose districts, land use and environmental organizations, and
27 additional stakeholders that self-identify as interested in
28 participating in the process.

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

32 (4) Any information provided by tribes will help to inform the
33 map product, but the Washington State University energy program may
34 not include sensitive tribal information, as identified by federally
35 recognized Indian tribes, in the publicly available map or GIS data
36 layers. The information developed by this process and creation of the
37 map under this section does not supplant the need for project
38 developers to conduct early and individual outreach to federally

1 recognized Indian tribes and other affected communities. The
2 Washington State University energy program must take precautions to
3 prevent disclosure of any sensitive tribal information it receives
4 during the process, consistent with RCW 42.56.300.

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

7 NEW SECTION. **Sec. 307.** (1)(a) The department must consult with
8 stakeholders from rural communities, agriculture, natural resource
9 management and conservation, and forestry to gain a better
10 understanding of the benefits and impacts of anticipated changes in
11 the state's energy system, including the siting of facilities under
12 the jurisdiction of the energy facility site evaluation council, and
13 to identify risks and opportunities for rural communities. This
14 consultation must be conducted in compliance with the community
15 engagement plan developed by the department under chapter 70A.02 RCW
16 and with input from the environmental justice council, using the best
17 recommended practices available at the time. The department must
18 collect the best available information and learn from the lived
19 experiences of people in rural communities, with the objective of
20 improving state implementation of clean energy policies, including
21 the siting of energy facilities under the jurisdiction of the energy
22 facility site evaluation council, in ways that protect and improve
23 life in rural Washington. The department must consult with an array
24 of rural community members, including: Low-income community and
25 vulnerable population members or representatives; legislators; local
26 elected officials and staff; those involved with agriculture,
27 forestry, and natural resource management and conservation; renewable
28 energy project property owners; utilities; large energy consumers;
29 and others.

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

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

34 (i) Energy facility siting under the jurisdiction of the energy
35 facility site evaluation council, including placement of new
36 renewable energy resources, such as wind and solar generation, pumped
37 storage, and batteries or new nonemitting electric generation
38 resources, and their contribution to resource adequacy;

1 (ii) Production of hydrogen, biofuels, and feedstocks for clean
2 fuels;

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

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

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

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

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

14 (2) (a) The department must complete a report on rural clean
15 energy and resilience that takes into consideration the consultation
16 with rural stakeholders as described in subsection (1) of this
17 section. The report must include recommendations for how policies,
18 projects, and investment programs, including energy facility siting
19 through the energy facility site evaluation council, can be developed
20 or amended to more equitably distribute costs and benefits to rural
21 communities. The report must include an assessment of how to improve
22 the total benefits to rural areas overall, as well as the equitable
23 distribution of benefits and costs within rural communities.

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

27 (i) Direct, indirect, and induced jobs in construction and
28 operations;

29 (ii) Financial returns to property owners;

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

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

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

1 (vi) Potential forms of economic development assistance and
2 impact mitigation payments; and

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

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

10 (d) By December 1, 2024, the department must submit a final
11 report on rural clean energy and resilience to the joint committee on
12 energy supply, energy conservation, and energy resilience created in
13 RCW 44.39.010 and the appropriate policy and fiscal committees of the
14 legislature.

15 (3) For the purposes of this section, "department" means the
16 department of commerce.

17 **Sec. 308.** RCW 44.39.010 and 2005 c 299 s 1 are each amended to
18 read as follows:

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

21 **Sec. 309.** RCW 44.39.012 and 2005 c 299 s 4 are each amended to
22 read as follows:

23 The definitions in this section apply throughout this chapter
24 unless the context clearly requires otherwise.

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

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

30 NEW SECTION. **Sec. 310.** (1) The committee shall review the
31 report produced by the department of commerce under section 307 of
32 this act and consider any policy or budget recommendations to reduce
33 impacts and increase benefits of the clean energy transition for
34 rural communities, including mechanisms to support local tax revenues
35 and public services.

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

4 (3) Relevant state agencies, departments, and commissions,
5 including the energy facility site evaluation council, shall
6 cooperate with the committee and provide information as the chair
7 reasonably requests.

8 (4) The committee shall report its findings and any
9 recommendations to the energy facility site evaluation council and
10 the committees of the legislature with jurisdiction over environment
11 and energy laws by December 1, 2024. Recommendations of the committee
12 may be made by a simple majority of committee members. In the event
13 that the committee does not reach majority-supported recommendations,
14 the committee may report minority findings supported by at least two
15 members of the committee.

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

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

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

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

23 **PART 4**

24 **MISCELLANEOUS PROVISIONS**

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

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

29 NEW SECTION. **Sec. 403.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected."

ADOPTED AS AMENDED 04/08/2023

1 On page 1, line 1 of the title, after "siting;" strike the
2 remainder of the title and insert "amending RCW 80.50.140,
3 36.70C.030, 90.58.180, 43.21B.110, 44.39.010, and 44.39.012; adding a
4 new section to chapter 80.50 RCW; adding new sections to chapter
5 43.21C RCW; adding a new section to chapter 36.70B RCW; adding a new
6 section to chapter 36.01 RCW; adding new chapters to Title 43 RCW;
7 creating new sections; prescribing penalties; and providing an
8 expiration date."

EFFECT: Adds staff from the environmental justice council as participating members of the interagency coordinating council. Directs the council to make recommendations on future nonproject environmental impact statements for categories of clean energy projects as part of its annual report. Requires the council to consider and provide recommendations on additional benefits that could be provided to projects designated as clean energy projects of statewide significance (CEPSS). Requires applications for a designation as a CEPSS to include a plan for engagement with federally recognized Indian tribes and community engagement, rather than a plan for meaningful engagement with federally recognized Indian tribes and meaningful community engagement. Directs the department of commerce to provide a written determination that an application for a CEPSS designation is complete within 14 business days of receiving the application, or if the application is incomplete, an opportunity to meet with commerce to determine what is necessary to make the application complete. Requires commerce to notify the applicant whether the application is complete or what additional information is necessary within seven business days after the applicant submits additional information. Provides that when an application is complete, the director of commerce must determine within 60 business days whether to designate a project as a CEPSS. Specifies that a determination of completeness does not preclude the department of commerce from requesting additional information if new information is required or substantial changes in the proposed project occur.

Specifies that the legislature intends to make biennial appropriations to support tribal review of clean energy project proposals, permit applications, and environmental reviews, as well as tribal participation in up-front planning of clean energy projects. Excludes hydroelectric generation associated with facilities or persons that have been the subject of an enforcement action or settlement that resulted in a penalty or mitigation of at least \$100,000 under state hydraulic project approval laws, from the clean energy projects eligible for designation as a clean energy project of statewide significance, participation in the fully coordinated permit process, and the state environmental policy act changes. Specifies that permitting decisions made by state and local jurisdictions under

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the fully coordinated permitting process must be considered final, subject to any available appeals process, and that applicants utilizing the coordinated permitting process are not eligible for permitting under the energy facility site evaluation council (EFSEC) certification process for that project, unless a substantial change is made to the proposed project, as determined by EFSEC. Allows a project proponent to enter into a cost-reimbursement agreement to reimburse the costs of a federally recognized Indian tribe for reviewing and providing input on the siting and permitting of a clean energy project. Requires the department of ecology to engage in a preapplication process with all affected federally recognized Indian tribes potentially impacted by the project after initiation of the fully coordinated permitting process and requires any discussions to include the project's impact to tribal rights, interests, and resources.

Specifies that a land use decision as defined in the land use petition act, a final decision on a permit or other similar approval required under the shoreline management act, or any decision that would otherwise have been subject to the jurisdiction of the pollution control hearings board, and which is necessary for a clean energy project, shall be subject to the expedited process for judicial review established for energy facility site evaluation council certifications.

--- END ---