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**SENATE BILL 5283**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senators Wagoner, J. Wilson, Dozier, Boehnke, Schoesler, Muzzall, Warnick, and Fortunato

AN ACT Relating to prohibiting the energy facility site evaluation council from preempting local laws that forbid the siting of certain storage facilities in critical areas; and amending RCW 80.50.090 and 80.50.110.

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

**Sec.**  RCW 80.50.090 and 2022 c 183 s 9 are each amended to read as follows:

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

(2) Subsequent to the informational public hearing, the council shall conduct a public hearing to determine whether or not the proposed site is consistent and in compliance with city, county, or regional land use plans or zoning ordinances on the date of the application.

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 The director must provide an opportunity for public comment on a project for which a project applicant has withdrawn and revised the application and environmental checklist and subsequently received a threshold determination of nonsignificance or mitigated determination of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

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

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

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

(b) If the environmental impact of the proposed facility in an application for certification is not significant or will be mitigated to a nonsignificant level under RCW 43.21C.031, the council may limit the topic of the public hearing conducted as an adjudicative proceeding under this section to whether any land use plans or zoning ordinances with which the proposed site is determined to be inconsistent under subsection (2) of this section should be preempted. Notwithstanding this subsection, a land use plan or zoning ordinance that forbids the siting of an electricity storage facility in a critical area, as defined in RCW 36.70A.030, may not be preempted.

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

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

**Sec.**  RCW 80.50.110 and 1975-'76 2nd ex.s. c 108 s 37 are each amended to read as follows:

(1) If any provision of this chapter is in conflict with any other provision, limitation, or restriction which is now in effect under any other law of this state, or any rule or regulation promulgated thereunder, this chapter shall govern and control and such other law or rule or regulation promulgated thereunder shall be deemed superseded for the purposes of this chapter.

(2) ((~~The~~)) Except as provided in RCW 80.50.090, the state hereby preempts the regulation and certification of the location, construction, and operational conditions of certification of the energy facilities included under RCW 80.50.060 as now or hereafter amended.

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