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**SUBSTITUTE SENATE BILL 5241**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senate Environment, Energy & Technology (originally sponsored by Senators Llias, Boehnke, Christian, Cortes, Dozier, Hasegawa, MacEwen, Nobles, Saldaña, Salomon, Shewmake, and J. Wilson; by request of Energy Facilities Siting and Evaluation Council)

READ FIRST TIME 02/10/25.

1 AN ACT Relating to adding fusion energy to facilities that may  
2 obtain site certification for the purposes of chapter 80.50 RCW;  
3 amending RCW 80.50.010, 80.50.060, and 80.50.300; and reenacting and  
4 amending RCW 80.50.020.

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

6 **Sec. 1.** RCW 80.50.010 and 2022 c 183 s 1 are each amended to  
7 read as follows:

8 The legislature finds that the present and predicted growth in  
9 energy demands in the state of Washington requires a procedure for  
10 the selection and use of sites for energy facilities and the  
11 identification of a state position with respect to each proposed  
12 site. The legislature recognizes that the selection of sites will  
13 have a significant impact upon the welfare of the population, the  
14 location and growth of industry and the use of the natural resources  
15 of the state.

16 It is the policy of the state of Washington to reduce dependence  
17 on fossil fuels by recognizing the need for clean energy in order to  
18 strengthen the state's economy, meet the state's greenhouse gas  
19 reduction obligations, and mitigate the significant near-term and  
20 long-term impacts from climate change while conducting a public

1 process that is transparent and inclusive to all with particular  
2 attention to overburdened communities.

3 The legislature finds that the in-state manufacture of industrial  
4 products that enable a clean energy economy is critical to advancing  
5 the state's objectives in providing affordable electricity, promoting  
6 renewable energy, strengthening the state's economy, and reducing  
7 greenhouse gas emissions. Therefore, the legislature intends to  
8 provide the council with additional authority regarding the siting of  
9 clean energy product manufacturing facilities.

10 It is the policy of the state of Washington to recognize the  
11 pressing need for increased energy facilities, and to ensure through  
12 available and reasonable methods that the location and operation of  
13 all energy facilities and certain clean energy product manufacturing  
14 facilities will produce minimal adverse effects on the environment,  
15 ecology of the land and its wildlife, and the ecology of state waters  
16 and their aquatic life.

17 It is the intent to seek courses of action that will balance the  
18 increasing demands for energy facility location and operation in  
19 conjunction with the broad interests of the public. In addition, it  
20 is the intent of the legislature to streamline application review for  
21 energy facilities to meet the state's energy goals and to authorize  
22 applications for review of certain clean energy product manufacturing  
23 facilities to be considered under the provisions of this chapter.

24 Such action will be based on these premises:

25 (1) To assure Washington state citizens that, where applicable,  
26 operational safeguards are at least as stringent as the criteria  
27 established by the federal government and are technically sufficient  
28 for their welfare and protection.

29 (2) To preserve and protect the quality of the environment; to  
30 enhance the public's opportunity to enjoy the esthetic and  
31 recreational benefits of the air, water and land resources; to  
32 promote air cleanliness; to pursue beneficial changes in the  
33 environment; and to promote environmental justice for overburdened  
34 communities.

35 (3) To encourage the development and integration of clean energy  
36 sources.

37 (4) To provide abundant clean energy at reasonable cost.

38 (5) To avoid costs of complete site restoration and demolition of  
39 improvements and infrastructure at unfinished fission nuclear energy  
40 sites, and to use unfinished fission nuclear energy facilities for

1 public uses, including economic development, under the regulatory and  
2 management control of local governments and port districts.

3 (6) To avoid costly duplication in the siting process and ensure  
4 that decisions are made timely and without unnecessary delay while  
5 also encouraging meaningful public comment and participation in  
6 energy facility decisions.

7 **Sec. 2.** RCW 80.50.020 and 2022 c 183 s 2 are each reenacted and  
8 amended to read as follows:

9 The definitions in this section apply throughout this chapter  
10 unless the context clearly requires otherwise.

11 (1) "Alternative energy resource" includes energy facilities of  
12 the following types: (a) Wind; (b) solar energy; (c) geothermal  
13 energy; (d) renewable natural gas; (e) wave or tidal action; (f)  
14 biomass energy based on solid organic fuels from wood, forest, or  
15 field residues, or dedicated energy crops that do not include wood  
16 pieces that have been treated with chemical preservatives such as  
17 creosote, pentachlorophenol, or copper-chrome-arsenic; or (g)  
18 renewable or green electrolytic hydrogen.

19 (2) "Applicant" means any person who makes application for a site  
20 certification pursuant to the provisions of this chapter.

21 (3) "Application" means any request for approval of a particular  
22 site or sites filed in accordance with the procedures established  
23 pursuant to this chapter, unless the context otherwise requires.

24 (4) "Associated facilities" means storage, transmission,  
25 handling, or other related and supporting facilities connecting an  
26 energy plant with the existing energy supply, processing, or  
27 distribution system, including, but not limited to, communications,  
28 controls, mobilizing or maintenance equipment, instrumentation, and  
29 other types of ancillary transmission equipment, off-line storage or  
30 venting required for efficient operation or safety of the  
31 transmission system and overhead, and surface or subsurface lines of  
32 physical access for the inspection, maintenance, and safe operations  
33 of the transmission facility and new transmission lines constructed  
34 to operate at nominal voltages of at least 115,000 volts to connect a  
35 thermal power plant or alternative energy facilities to the northwest  
36 power grid. However, common carrier railroads or motor vehicles shall  
37 not be included.

1 (5) "Biofuel" means a liquid or gaseous fuel derived from organic  
2 matter including, but not limited to, biodiesel, renewable diesel,  
3 ethanol, renewable natural gas, and renewable propane.

4 (6) "Certification" means a binding agreement between an  
5 applicant and the state which shall embody compliance to the siting  
6 guidelines, in effect as of the date of certification, which have  
7 been adopted pursuant to RCW 80.50.040 as now or hereafter amended as  
8 conditions to be met prior to or concurrent with the construction or  
9 operation of any energy facility.

10 (7) "Clean energy product manufacturing facility" means a  
11 facility that exclusively or primarily manufactures the following  
12 products or components primarily used by such products:

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

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

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

23 (d) Equipment and products used to produce energy from  
24 alternative energy resources; and

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

26 (8) "Construction" means on-site improvements, excluding  
27 exploratory work, which cost in excess of (~~two hundred fifty~~  
28 ~~thousand dollars~~) \$250,000.

29 (9) "Council" means the energy facility site evaluation council  
30 created by RCW 80.50.030.

31 (10) "Counsel for the environment" means an assistant attorney  
32 general or a special assistant attorney general who shall represent  
33 the public in accordance with RCW 80.50.080.

34 (11) "Director" means the director of the energy facility site  
35 evaluation council appointed by the chair of the council in  
36 accordance with RCW 80.50.360.

37 (12) "Electrical transmission facilities" means electrical power  
38 lines and related equipment.

1 (13) "Energy facility" means an energy plant or transmission  
2 facilities: PROVIDED, That the following are excluded from the  
3 provisions of this chapter:

4 (a) Facilities for the extraction, conversion, transmission or  
5 storage of water, other than water specifically consumed or  
6 discharged by energy production or conversion for energy purposes;  
7 and

8 (b) Facilities operated by and for the armed services for  
9 military purposes or by other federal authority for the national  
10 defense.

11 (14) "Energy plant" means the following facilities together with  
12 their associated facilities:

13 (a) Any fission nuclear power facility where the primary purpose  
14 is to produce and sell electricity;

15 (b) Any nonnuclear stationary thermal power plant with generating  
16 capacity of (~~three hundred fifty thousand~~) 350,000 kilowatts or  
17 more, measured using maximum continuous electric generating capacity,  
18 less minimum auxiliary load, at average ambient temperature and  
19 pressure, and floating thermal power plants of (~~one hundred~~  
20 ~~thousand~~) 100,000 kilowatts or more suspended on the surface of  
21 water by means of a barge, vessel, or other floating platform;

22 (c) Facilities which will have the capacity to receive liquefied  
23 natural gas in the equivalent of more than (~~one hundred million~~)  
24 100,000,000 standard cubic feet of natural gas per day, which has  
25 been transported over marine waters;

26 (d) Facilities which will have the capacity to receive more than  
27 an average of (~~fifty thousand~~) 50,000 barrels per day of crude or  
28 refined petroleum or liquefied petroleum gas which has been or will  
29 be transported over marine waters, except that the provisions of this  
30 chapter shall not apply to storage facilities unless occasioned by  
31 such new facility construction;

32 (e) Any underground reservoir for receipt and storage of natural  
33 gas as defined in RCW 80.40.010 capable of delivering an average of  
34 more than (~~one hundred million~~) 100,000,000 standard cubic feet of  
35 natural gas per day; and

36 (f) Facilities capable of processing more than (~~twenty-five~~  
37 ~~thousand~~) 25,000 barrels per day of petroleum or biofuel into  
38 refined products except where such biofuel production is undertaken  
39 at existing industrial facilities.

1 (15) (a) "Green electrolytic hydrogen" means hydrogen produced  
2 through electrolysis.

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

6 (16) "Green hydrogen carrier" means a chemical compound, created  
7 using electricity or renewable resources as energy input and without  
8 use of fossil fuel as a feedstock, from renewable hydrogen or green  
9 electrolytic hydrogen for the purposes of transportation, storage,  
10 and dispensing of hydrogen.

11 (17) "Independent consultants" means those persons who have no  
12 financial interest in the applicant's proposals and who are retained  
13 by the council to evaluate the applicant's proposals, supporting  
14 studies, or to conduct additional studies.

15 (18) "Land use plan" means a comprehensive plan or land use  
16 element thereof adopted by a unit of local government pursuant to  
17 chapter 35.63, 35A.63, 36.70, or 36.70A RCW, or as otherwise  
18 designated by chapter 325, Laws of 2007.

19 (19) "Person" means an individual, partnership, joint venture,  
20 private or public corporation, association, firm, public service  
21 company, political subdivision, municipal corporation, government  
22 agency, public utility district, or any other entity, public or  
23 private, however organized.

24 (20) "Preapplicant" means a person considering applying for a  
25 site certificate agreement for any facility.

26 (21) "Preapplication process" means the process which is  
27 initiated by written correspondence from the preapplicant to the  
28 council, and includes the process adopted by the council for  
29 consulting with the preapplicant and with federally recognized  
30 tribes, cities, towns, and counties prior to accepting applications  
31 for any facility.

32 (22) "Renewable hydrogen" means hydrogen produced using renewable  
33 resources both as the source for the hydrogen and the source for the  
34 energy input into the production process.

35 (23) "Renewable natural gas" means a gas consisting largely of  
36 methane and other hydrocarbons derived from the decomposition of  
37 organic material in landfills, wastewater treatment facilities, and  
38 anaerobic digesters.

39 (24) "Renewable resource" means: (a) Water; (b) wind; (c) solar  
40 energy; (d) geothermal energy; (e) renewable natural gas; (f)

1 renewable hydrogen; (g) wave, ocean, or tidal power; (h) biodiesel  
2 fuel that is not derived from crops raised on land cleared from old  
3 growth or first growth forests; or (i) biomass energy.

4 (25) "Secretary" means the secretary of the United States  
5 department of energy.

6 (26) "Site" means any proposed or approved location of an energy  
7 facility, alternative energy resource, clean energy product  
8 manufacturing facility, or electrical transmission facility.

9 (27) "Storage facility" means a plant that: (a) Accepts  
10 electricity as an energy source and uses a chemical, thermal,  
11 mechanical, or other process to store energy for subsequent delivery  
12 or consumption in the form of electricity; or (b) stores renewable  
13 hydrogen, green electrolytic hydrogen, or a green hydrogen carrier  
14 for subsequent delivery or consumption.

15 (28) "Thermal power plant" means, for the purpose of  
16 certification, any electrical generating facility using any fuel for  
17 distribution of electricity by electric utilities.

18 (29) "Transmission facility" means any of the following together  
19 with their associated facilities:

20 (a) Crude or refined petroleum or liquid petroleum product  
21 transmission pipeline of the following dimensions: A pipeline larger  
22 than six inches minimum inside diameter between valves for the  
23 transmission of these products with a total length of at least  
24 (~~fifteen~~) 15 miles;

25 (b) Natural gas, synthetic fuel gas, or liquefied petroleum gas  
26 transmission pipeline of the following dimensions: A pipeline larger  
27 than (~~fourteen~~) 14 inches minimum inside diameter between valves,  
28 for the transmission of these products, with a total length of at  
29 least (~~fifteen~~) 15 miles for the purpose of delivering gas to a  
30 distribution facility, except an interstate natural gas pipeline  
31 regulated by the United States federal energy regulatory commission.

32 (30) "Zoning ordinance" means an ordinance of a unit of local  
33 government regulating the use of land and adopted pursuant to chapter  
34 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state  
35 Constitution, or as otherwise designated by chapter 325, Laws of  
36 2007.

37 **Sec. 3.** RCW 80.50.060 and 2023 c 229 s 4 are each amended to  
38 read as follows:

1 (1) (a) The provisions of this chapter apply to the construction  
2 of energy facilities which includes the new construction of energy  
3 facilities and the reconstruction or enlargement of existing energy  
4 facilities where the net increase in physical capacity or dimensions  
5 resulting from such reconstruction or enlargement meets or exceeds  
6 those capacities or dimensions set forth in RCW 80.50.020 (14) and  
7 (29). No construction or reconstruction of such energy facilities may  
8 be undertaken, except as otherwise provided in this chapter, without  
9 first obtaining certification in the manner provided in this chapter.

10 (b) If applicants proposing the following types of facilities  
11 choose to receive certification under this chapter, the provisions of  
12 this chapter apply to the construction, reconstruction, or  
13 enlargement of these new or existing facilities:

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

16 (ii) Alternative energy resource facilities;

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

21 (iv) Clean energy product manufacturing facilities; ~~((and))~~

22 (v) Storage facilities; and

23 (vi) Fusion energy facilities. However, such a fusion energy  
24 facility receiving site certification must also secure required  
25 licenses and registrations, or equivalent authorizations, for  
26 radiation control purposes from designated state or federal agencies.

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

31 (2) (a) The provisions of this chapter must apply to:

32 (i) The construction, reconstruction, or enlargement of new or  
33 existing electrical transmission facilities: (A) Of a nominal voltage  
34 of at least 500,000 volts alternating current or at least 300,000  
35 volts direct current; (B) located in more than one county; and (C)  
36 located in the Washington service area of more than one retail  
37 electric utility; and

38 (ii) The construction, reconstruction, or modification of  
39 electrical transmission facilities when the facilities are located in

1 a national interest electric transmission corridor as specified in  
2 RCW 80.50.045.

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

13 (3) The provisions of this chapter shall not apply to normal  
14 maintenance and repairs which do not increase the capacity or  
15 dimensions beyond those set forth in RCW 80.50.020 (14) and (29).

16 (4) Applications for certification of energy facilities made  
17 prior to July 15, 1977, shall continue to be governed by the  
18 applicable provisions of law in effect on the day immediately  
19 preceding July 15, 1977, with the exceptions of RCW 80.50.071 which  
20 shall apply to such prior applications and to site certifications  
21 prospectively from July 15, 1977.

22 (5) Applications for certification shall be upon forms prescribed  
23 by the council and shall be supported by such information and  
24 technical studies as the council may require.

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

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

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

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

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

34 (7) The council must work with local governments where a project  
35 is proposed to be sited in order to provide for meaningful  
36 participation and input during siting review and compliance  
37 monitoring.

38 (8) The council must consult with all federally recognized tribes  
39 that possess resources, rights, or interests reserved or protected by  
40 federal treaty, statute, or executive order in the area where an

1 energy facility is proposed to be located to provide early and  
2 meaningful participation and input during siting review and  
3 compliance monitoring. The chair and designated staff must offer to  
4 conduct government-to-government consultation to address issues of  
5 concern raised by such a tribe. The goal of the consultation process  
6 is to identify tribal resources or rights potentially affected by the  
7 proposed energy facility and to seek ways to avoid, minimize, or  
8 mitigate any adverse effects on tribal resources or rights. The chair  
9 must provide regular updates on the consultation to the council  
10 throughout the application review process. The report from the  
11 council to the governor required in RCW 80.50.100 must include a  
12 summary of the government-to-government consultation process that  
13 complies with RCW 42.56.300, including the issues and proposed  
14 resolutions.

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

19 **Sec. 4.** RCW 80.50.300 and 2000 c 243 s 1 are each amended to  
20 read as follows:

21 (1) This section applies only to unfinished fission nuclear power  
22 projects. If a certificate holder stops construction of a fission  
23 nuclear energy facility before completion, terminates the project or  
24 otherwise resolves not to complete construction, never introduces or  
25 stores fuel for the energy facility on the site, and never operates  
26 the energy facility as designed to produce energy, the certificate  
27 holder may contract, establish interlocal agreements, or use other  
28 formal means to effect the transfer of site restoration  
29 responsibilities, which may include economic development activities,  
30 to any political subdivision or subdivisions of the state composed of  
31 elected officials. The contracts, interlocal agreements, or other  
32 formal means of cooperation may include, but are not limited to  
33 provisions effecting the transfer or conveyance of interests in the  
34 site and energy facilities from the certificate holder to other  
35 political subdivisions of the state, including costs of maintenance  
36 and security, capital improvements, and demolition and salvage of the  
37 unused energy facilities and infrastructure.

38 (2) If a certificate holder transfers all or a portion of the  
39 site to a political subdivision or subdivisions of the state composed

1 of elected officials and located in the same county as the site, the  
2 council shall amend the site certification agreement to release those  
3 portions of the site that it finds are no longer intended for the  
4 development of an energy facility.

5 Immediately upon release of all or a portion of the site pursuant  
6 to this section, all responsibilities for maintaining the public  
7 welfare for portions of the site transferred, including but not  
8 limited to health and safety, are transferred to the political  
9 subdivision or subdivisions of the state. For sites located on  
10 federal land, all responsibilities for maintaining the public welfare  
11 for all of the site, including but not limited to health and safety,  
12 must be transferred to the political subdivision or subdivisions of  
13 the state irrespective of whether all or a portion of the site is  
14 released.

15 (3) The legislature finds that for all or a portion of sites that  
16 have been transferred to a political subdivision or subdivisions of  
17 the state prior to September 1, 1999, ensuring water for site  
18 restoration including economic development, completed pursuant to  
19 this section can best be accomplished by a transfer of existing  
20 surface water rights, and that such a transfer is best accomplished  
21 administratively through procedures set forth in existing statutes  
22 and rules. However, if a transfer of water rights is not possible,  
23 the department of ecology shall, within six months of the transfer of  
24 the site or portion thereof pursuant to subsection (1) of this  
25 section, create a trust water right under chapter 90.42 RCW  
26 containing between ten and twenty cubic feet per second for the  
27 benefit of the appropriate political subdivision or subdivisions of  
28 the state. The trust water right shall be used in fulfilling site  
29 restoration responsibilities, including economic development. The  
30 trust water right shall be from existing valid water rights within  
31 the basin where the site is located.

32 (4) For purposes of this section, "political subdivision or  
33 subdivisions of the state" means a city, town, county, public utility  
34 district, port district, or joint operating agency.

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