

HB 1018 - S COMM AMD

By Committee on Environment, Energy & Technology

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

3 **"Sec. 1.** RCW 80.50.010 and 2022 c 183 s 1 are each amended to
4 read as follows:

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

13 It is the policy of the state of Washington to reduce dependence
14 on fossil fuels by recognizing the need for clean energy in order to
15 strengthen the state's economy, meet the state's greenhouse gas
16 reduction obligations, and mitigate the significant near-term and
17 long-term impacts from climate change while conducting a public
18 process that is transparent and inclusive to all with particular
19 attention to overburdened communities.

20 The legislature finds that the in-state manufacture of industrial
21 products that enable a clean energy economy is critical to advancing
22 the state's objectives in providing affordable electricity, promoting
23 renewable energy, strengthening the state's economy, and reducing
24 greenhouse gas emissions. Therefore, the legislature intends to
25 provide the council with additional authority regarding the siting of
26 clean energy product manufacturing facilities.

27 It is the policy of the state of Washington to recognize the
28 pressing need for increased energy facilities, and to ensure through
29 available and reasonable methods that the location and operation of
30 all energy facilities and certain clean energy product manufacturing
31 facilities will produce minimal adverse effects on the environment,

ecology of the land and its wildlife, and the ecology of state waters and their aquatic life.

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

Such action will be based on these premises:

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

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

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

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

(5) To avoid costs of complete site restoration and demolition of improvements and infrastructure at unfinished fission nuclear energy sites, and to use unfinished fission nuclear energy facilities for public uses, including economic development, under the regulatory and management control of local governments and port districts.

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

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

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

(1) "Alternative energy resource" includes energy facilities of the following types: (a) Wind; (b) solar energy; (c) geothermal energy; (d) renewable natural gas; (e) wave or tidal action; (f)

1 biomass energy based on solid organic fuels from wood, forest, or
2 field residues, or dedicated energy crops that do not include wood
3 pieces that have been treated with chemical preservatives such as
4 creosote, pentachlorophenol, or copper-chrome-arsenic; or (g)
5 renewable or green electrolytic hydrogen.

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

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

11 (4) "Associated facilities" means storage, transmission,
12 handling, or other related and supporting facilities connecting an
13 energy plant with the existing energy supply, processing, or
14 distribution system, including, but not limited to, communications,
15 controls, mobilizing or maintenance equipment, instrumentation, and
16 other types of ancillary transmission equipment, off-line storage or
17 venting required for efficient operation or safety of the
18 transmission system and overhead, and surface or subsurface lines of
19 physical access for the inspection, maintenance, and safe operations
20 of the transmission facility and new transmission lines constructed
21 to operate at nominal voltages of at least 115,000 volts to connect a
22 thermal power plant or alternative energy facilities to the northwest
23 power grid. However, common carrier railroads or motor vehicles shall
24 not be included.

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

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

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

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

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

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

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

(e) Equipment and products used at storage facilities.

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

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

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

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

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

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

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

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

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

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

(b) Any nonnuclear stationary thermal power plant with generating capacity of (~~three hundred fifty thousand~~) 350,000 kilowatts or more, measured using maximum continuous electric generating capacity,

1 less minimum auxiliary load, at average ambient temperature and
2 pressure, and floating thermal power plants of (~~one hundred~~
3 ~~thousand~~) 100,000 kilowatts or more suspended on the surface of
4 water by means of a barge, vessel, or other floating platform;

5 (c) Facilities which will have the capacity to receive liquefied
6 natural gas in the equivalent of more than (~~one hundred million~~)
7 100,000,000 standard cubic feet of natural gas per day, which has
8 been transported over marine waters;

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

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

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

23 (15)(a) "Green electrolytic hydrogen" means hydrogen produced
24 through electrolysis.

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

28 (16) "Green hydrogen carrier" means a chemical compound, created
29 using electricity or renewable resources as energy input and without
30 use of fossil fuel as a feedstock, from renewable hydrogen or green
31 electrolytic hydrogen for the purposes of transportation, storage,
32 and dispensing of hydrogen.

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

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

1 (19) "Person" means an individual, partnership, joint venture,
2 private or public corporation, association, firm, public service
3 company, political subdivision, municipal corporation, government
4 agency, public utility district, or any other entity, public or
5 private, however organized.

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

8 (21) "Preapplication process" means the process which is
9 initiated by written correspondence from the preapplicant to the
10 council, and includes the process adopted by the council for
11 consulting with the preapplicant and with federally recognized
12 tribes, cities, towns, and counties prior to accepting applications
13 for any facility.

14 (22) "Renewable hydrogen" means hydrogen produced using renewable
15 resources both as the source for the hydrogen and the source for the
16 energy input into the production process.

17 (23) "Renewable natural gas" means a gas consisting largely of
18 methane and other hydrocarbons derived from the decomposition of
19 organic material in landfills, wastewater treatment facilities, and
20 anaerobic digesters.

21 (24) "Renewable resource" means: (a) Water; (b) wind; (c) solar
22 energy; (d) geothermal energy; (e) renewable natural gas; (f)
23 renewable hydrogen; (g) wave, ocean, or tidal power; (h) biodiesel
24 fuel that is not derived from crops raised on land cleared from old
25 growth or first growth forests; or (i) biomass energy.

26 (25) "Secretary" means the secretary of the United States
27 department of energy.

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

31 (27) "Storage facility" means a plant that: (a) Accepts
32 electricity as an energy source and uses a chemical, thermal,
33 mechanical, or other process to store energy for subsequent delivery
34 or consumption in the form of electricity; or (b) stores renewable
35 hydrogen, green electrolytic hydrogen, or a green hydrogen carrier
36 for subsequent delivery or consumption.

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

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

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

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

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

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

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

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

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

(ii) Alternative energy resource facilities;

(iii) Electrical transmission facilities: (A) Of a nominal voltage of at least 115,000 volts; and (B) located in more than one

jurisdiction that has promulgated land use plans or zoning ordinances;

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

(v) Storage facilities; and

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

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

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

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

(ii) The construction, reconstruction, or modification of electrical transmission facilities when the facilities are located in a national interest electric transmission corridor as specified in RCW 80.50.045.

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

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

(4) Applications for certification of energy facilities made prior to July 15, 1977, shall continue to be governed by the applicable provisions of law in effect on the day immediately preceding July 15, 1977, with the exceptions of RCW 80.50.071 which

1 shall apply to such prior applications and to site certifications
2 prospectively from July 15, 1977.

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

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

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

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

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

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

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

19 (8) The council must consult with all federally recognized tribes
20 that possess resources, rights, or interests reserved or protected by
21 federal treaty, statute, or executive order in the area where an
22 energy facility is proposed to be located to provide early and
23 meaningful participation and input during siting review and
24 compliance monitoring. The chair and designated staff must offer to
25 conduct government-to-government consultation to address issues of
26 concern raised by such a tribe. The goal of the consultation process
27 is to identify tribal resources or rights potentially affected by the
28 proposed energy facility and to seek ways to avoid, minimize, or
29 mitigate any adverse effects on tribal resources or rights. The chair
30 must provide regular updates on the consultation to the council
31 throughout the application review process. The report from the
32 council to the governor required in RCW 80.50.100 must include a
33 summary of the government-to-government consultation process that
34 complies with RCW 42.56.300, including the issues and proposed
35 resolutions.

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

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

3 (1) This section applies only to unfinished fission nuclear power
4 projects. If a certificate holder stops construction of a fission
5 nuclear energy facility before completion, terminates the project or
6 otherwise resolves not to complete construction, never introduces or
7 stores fuel for the energy facility on the site, and never operates
8 the energy facility as designed to produce energy, the certificate
9 holder may contract, establish interlocal agreements, or use other
10 formal means to effect the transfer of site restoration
11 responsibilities, which may include economic development activities,
12 to any political subdivision or subdivisions of the state composed of
13 elected officials. The contracts, interlocal agreements, or other
14 formal means of cooperation may include, but are not limited to
15 provisions effecting the transfer or conveyance of interests in the
16 site and energy facilities from the certificate holder to other
17 political subdivisions of the state, including costs of maintenance
18 and security, capital improvements, and demolition and salvage of the
19 unused energy facilities and infrastructure.

20 (2) If a certificate holder transfers all or a portion of the
21 site to a political subdivision or subdivisions of the state composed
22 of elected officials and located in the same county as the site, the
23 council shall amend the site certification agreement to release those
24 portions of the site that it finds are no longer intended for the
25 development of an energy facility.

26 Immediately upon release of all or a portion of the site pursuant
27 to this section, all responsibilities for maintaining the public
28 welfare for portions of the site transferred, including but not
29 limited to health and safety, are transferred to the political
30 subdivision or subdivisions of the state. For sites located on
31 federal land, all responsibilities for maintaining the public welfare
32 for all of the site, including but not limited to health and safety,
33 must be transferred to the political subdivision or subdivisions of
34 the state irrespective of whether all or a portion of the site is
35 released.

36 (3) The legislature finds that for all or a portion of sites that
37 have been transferred to a political subdivision or subdivisions of
38 the state prior to September 1, 1999, ensuring water for site
39 restoration including economic development, completed pursuant to
40 this section can best be accomplished by a transfer of existing

1 surface water rights, and that such a transfer is best accomplished
2 administratively through procedures set forth in existing statutes
3 and rules. However, if a transfer of water rights is not possible,
4 the department of ecology shall, within six months of the transfer of
5 the site or portion thereof pursuant to subsection (1) of this
6 section, create a trust water right under chapter 90.42 RCW
7 containing between ten and twenty cubic feet per second for the
8 benefit of the appropriate political subdivision or subdivisions of
9 the state. The trust water right shall be used in fulfilling site
10 restoration responsibilities, including economic development. The
11 trust water right shall be from existing valid water rights within
12 the basin where the site is located.

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

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16 On page 1, line 2 of the title, after "RCW;" strike the remainder
17 of the title and insert "amending RCW 80.50.010, 80.50.060, and
18 80.50.300; and reenacting and amending RCW 80.50.020."

EFFECT: Clarifies that references to unfinished nuclear power or
energy facilities in the Energy Facility Site Evaluation Council
chapter are fission nuclear power facilities.

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