
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1812

AS AMENDED BY THE SENATE

Passed Legislature - 2022 Regular Session

State of Washington

67th Legislature

2022 Regular Session

By House Appropriations (originally sponsored by Representatives Fitzgibbon, Wylie, Berry, Valdez, Pollet, and Harris-Talley; by request of Office of the Governor)

READ FIRST TIME 02/07/22.

1 AN ACT Relating to modernizing the energy facility site
2 evaluation council to meet the state's clean energy goals; amending
3 RCW 80.50.010, 80.50.020, 80.50.040, 80.50.060, 80.50.071, 80.50.100,
4 80.50.175, 80.50.340, 80.50.075, 44.39.010, and 44.39.012; reenacting
5 and amending RCW 80.50.030, 80.50.090, and 43.79A.040; adding new
6 sections to chapter 80.50 RCW; adding a new section to chapter 41.06
7 RCW; creating new sections; repealing RCW 80.50.190 and 80.50.904;
8 providing an effective date; and providing an expiration date.

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

10 **Sec. 1.** RCW 80.50.010 and 2001 c 214 s 1 are each amended to
11 read as follows:

12 The legislature finds that the present and predicted growth in
13 energy demands in the state of Washington requires (~~the development~~
14 ~~of~~) a procedure for the selection and (~~utilization~~) use of sites
15 for energy facilities and the identification of a state position with
16 respect to each proposed site. The legislature recognizes that the
17 selection of sites will have a significant impact upon the welfare of
18 the population, the location and growth of industry and the use of
19 the natural resources of the state.

20 It is the policy of the state of Washington to reduce dependence
21 on fossil fuels by recognizing the need for clean energy in order to

1 strengthen the state's economy, meet the state's greenhouse gas
2 reduction obligations, and mitigate the significant near-term and
3 long-term impacts from climate change while conducting a public
4 process that is transparent and inclusive to all with particular
5 attention to overburdened communities.

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

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

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

27 Such action will be based on these premises:

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

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

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

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

1 ~~((4))~~ (5) To avoid costs of complete site restoration and
2 demolition of improvements and infrastructure at unfinished nuclear
3 energy sites, and to use unfinished nuclear energy facilities for
4 public uses, including economic development, under the regulatory and
5 management control of local governments and port districts.

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

10 **Sec. 2.** RCW 80.50.020 and 2021 c 317 s 17 are each amended to
11 read as follows:

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

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

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

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

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

1 power grid. However, common carrier railroads or motor vehicles shall
2 not be included.

3 (5) "Biofuel" means a liquid or gaseous fuel derived from organic
4 matter (~~((intended for use as a transportation fuel))~~) including, but
5 not limited to, biodiesel, renewable diesel, ethanol, renewable
6 natural gas, and renewable propane.

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

13 (7) "Construction" means on-site improvements, excluding
14 exploratory work, which cost in excess of two hundred fifty thousand
15 dollars.

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

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

21 (10) "Electrical transmission facilities" means electrical power
22 lines and related equipment.

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

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

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

33 (12) "Energy plant" means the following facilities together with
34 their associated facilities:

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

37 (b) Any nonnuclear stationary thermal power plant with generating
38 capacity of three hundred fifty thousand kilowatts or more, measured
39 using maximum continuous electric generating capacity, less minimum
40 auxiliary load, at average ambient temperature and pressure, and

1 floating thermal power plants of one hundred thousand kilowatts or
2 more suspended on the surface of water by means of a barge, vessel,
3 or other floating platform;

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

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

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

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

22 ~~(g) Facilities capable of producing more than one thousand five~~
23 ~~hundred barrels per day of refined biofuel but less than twenty-five~~
24 ~~thousand barrels of refined biofuel)).~~

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

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

33 (15) "Person" means an individual, partnership, joint venture,
34 private or public corporation, association, firm, public service
35 company, political subdivision, municipal corporation, government
36 agency, public utility district, or any other entity, public or
37 private, however organized.

38 (16) "Preapplicant" means a person considering applying for a
39 site certificate agreement for any (~~(transmission)~~) facility.

1 (17) "Preapplication process" means the process which is
2 initiated by written correspondence from the preapplicant to the
3 council, and includes the process adopted by the council for
4 consulting with the preapplicant and with federally recognized
5 tribes, cities, towns, and counties prior to accepting applications
6 for (~~(all transmission facilities)~~) any facility.

7 (18) "Secretary" means the secretary of the United States
8 department of energy.

9 (19) "Site" means any proposed or approved location of an energy
10 facility, alternative energy resource, clean energy product
11 manufacturing facility, or electrical transmission facility.

12 (20) "Thermal power plant" means, for the purpose of
13 certification, any electrical generating facility using any fuel for
14 distribution of electricity by electric utilities.

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

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

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

29 (22) "Zoning ordinance" means an ordinance of a unit of local
30 government regulating the use of land and adopted pursuant to chapter
31 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state
32 Constitution, or as otherwise designated by chapter 325, Laws of
33 2007.

34 (23) "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;

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

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

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

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

11 (24) "Director" means the director of the energy facility site
12 evaluation council appointed by the chair of the council in
13 accordance with section 4 of this act.

14 (25)(a) "Green electrolytic hydrogen" means hydrogen produced
15 through electrolysis.

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

19 (26) "Green hydrogen carrier" means a chemical compound, created
20 using electricity or renewable resources as energy input and without
21 use of fossil fuel as a feedstock, from renewable hydrogen or green
22 electrolytic hydrogen for the purposes of transportation, storage,
23 and dispensing of hydrogen.

24 (27) "Renewable hydrogen" means hydrogen produced using renewable
25 resources both as the source for the hydrogen and the source for the
26 energy input into the production process.

27 (28) "Renewable natural gas" means a gas consisting largely of
28 methane and other hydrocarbons derived from the decomposition of
29 organic material in landfills, wastewater treatment facilities, and
30 anaerobic digesters.

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

36 (30) "Storage facility" means a plant that: (a) Accepts
37 electricity as an energy source and uses a chemical, thermal,
38 mechanical, or other process to store energy for subsequent delivery
39 or consumption in the form of electricity; or (b) stores renewable

1 hydrogen, green electrolytic hydrogen, or a green hydrogen carrier
2 for subsequent delivery or consumption.

3 **Sec. 3.** RCW 80.50.030 and 2010 c 271 s 601 and 2010 c 152 s 2
4 are each reenacted and amended to read as follows:

5 (1) ~~((There is created and established the))~~ The energy facility
6 site evaluation council is created and established.

7 (2) ~~((a))~~ The chair of the council shall be appointed by the
8 governor with the advice and consent of the senate, shall have a vote
9 on matters before the council, shall serve for a term coextensive
10 with the term of the governor, and is removable for cause. The chair
11 may designate a member of the council to serve as acting chair in the
12 event of the chair's absence. The salary of the chair shall be
13 determined under RCW 43.03.040. The chair is a "state employee" for
14 the purposes of chapter 42.52 RCW. As applicable, when attending
15 meetings of the council, members may receive reimbursement for travel
16 expenses in accordance with RCW 43.03.050 and 43.03.060, and are
17 eligible for compensation under RCW 43.03.250.

18 ~~((b) The chair or a designee shall execute all official~~
19 ~~documents, contracts, and other materials on behalf of the council.~~
20 ~~The Washington utilities and transportation commission shall provide~~
21 ~~all administrative and staff support for the council. The commission~~
22 ~~has supervisory authority over the staff of the council and shall~~
23 ~~employ such personnel as are necessary to implement this chapter. Not~~
24 ~~more than three such employees may be exempt from chapter 41.06 RCW.~~
25 ~~The council shall otherwise retain its independence in exercising its~~
26 ~~powers, functions, and duties and its supervisory control over~~
27 ~~nonadministrative staff support. Membership, powers, functions, and~~
28 ~~duties of the Washington state utilities and transportation~~
29 ~~commission and the council shall otherwise remain as provided by~~
30 ~~law.))~~

31 (3) (a) The council shall consist of the ~~((directors,~~
32 ~~administrators, or their designees, of the following departments,~~
33 ~~agencies, commissions, and committees or their statutory successors:~~

34 ~~(i) Department of ecology;~~

35 ~~(ii) Department of fish and wildlife;~~

36 ~~(iii) Department of commerce;~~

37 ~~(iv) Utilities and transportation commission; and~~

38 ~~(v) Department of natural resources))~~ chair of the council and:

1 (i) The director of the department of ecology or the director's
2 designee;

3 (ii) The director of the department of fish and wildlife or the
4 director's designee;

5 (iii) The director of the department of commerce or the
6 director's designee;

7 (iv) The chair of the utilities and transportation commission or
8 the chair's designee; and

9 (v) The commissioner of public lands or the commissioner's
10 designee.

11 (b) The directors, administrators, or their designees, of the
12 following departments, agencies, and commissions, or their statutory
13 successors, may participate as councilmembers at their own discretion
14 provided they elect to participate no later than sixty days after an
15 application is filed:

16 (i) Department of agriculture;

17 (ii) Department of health;

18 (iii) Military department; and

19 (iv) Department of transportation.

20 ~~((c) Council membership is discretionary for agencies that~~
21 ~~choose to participate under (b) of this subsection only for~~
22 ~~applications that are filed with the council on or after May 8, 2001.~~
23 ~~For applications filed before May 8, 2001, council membership is~~
24 ~~mandatory for those agencies listed in (b) of this subsection.))~~

25 (4) The appropriate county legislative authority of every county
26 wherein an application for a proposed site is filed shall appoint a
27 member or designee as a voting member to the council. The member or
28 designee so appointed shall sit with the council only at such times
29 as the council considers the proposed site for the county which he or
30 she represents, and such member or designee shall serve until there
31 has been a final acceptance or rejection of the proposed site.

32 (5) The city legislative authority of every city within whose
33 corporate limits an energy facility is proposed to be located shall
34 appoint a member or designee as a voting member to the council. The
35 member or designee so appointed shall sit with the council only at
36 such times as the council considers the proposed site for the city
37 which he or she represents, and such member or designee shall serve
38 until there has been a final acceptance or rejection of the proposed
39 site.

1 (6) For any port district wherein an application for a proposed
2 port facility is filed subject to this chapter, the port district
3 shall appoint a member or designee as a nonvoting member to the
4 council. The member or designee so appointed shall sit with the
5 council only at such times as the council considers the proposed site
6 for the port district which he or she represents, and such member or
7 designee shall serve until there has been a final acceptance or
8 rejection of the proposed site. The provisions of this subsection
9 shall not apply if the port district is the applicant, either singly
10 or in partnership or association with any other person.

11 (7) A quorum of the council consists of a majority of members
12 appointed for business to be conducted.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 80.50
14 RCW to read as follows:

15 (1) The chair of the council or the chair's designee shall
16 execute all official documents, contracts, and other materials on
17 behalf of the council.

18 (2) The chair of the council shall appoint a director to oversee
19 the operations of the council and carry out the duties of this
20 chapter as delegated by the chair. The chair of the council may
21 delegate to the director its status as appointing authority for the
22 council.

23 (3) The director shall employ such administrative and
24 professional personnel as may be necessary to perform the
25 administrative work of the council and implement this chapter. The
26 director has supervisory authority over all staff of the council. Not
27 more than four employees may be exempt from chapter 41.06 RCW.

28 **Sec. 5.** RCW 80.50.040 and 2001 c 214 s 6 are each amended to
29 read as follows:

30 The council shall have the following powers:

31 (1) To adopt, promulgate, amend, or rescind suitable rules and
32 regulations, pursuant to chapter 34.05 RCW, to carry out the
33 provisions of this chapter, and the policies and practices of the
34 council in connection therewith;

35 (2) To develop and apply environmental and ecological guidelines
36 in relation to the type, design, location, construction, ~~((and))~~
37 initial operational conditions of certification, and ongoing

1 regulatory oversight under the regulatory authority established in
2 this chapter of energy facilities subject to this chapter;

3 (3) To establish rules of practice for the conduct of public
4 hearings pursuant to the provisions of the Administrative Procedure
5 Act, as found in chapter 34.05 RCW;

6 (4) To prescribe the form, content, and necessary supporting
7 documentation for site certification;

8 (5) To receive applications for energy facility locations and to
9 investigate the sufficiency thereof;

10 (6) To ~~((make and contract, when applicable, for independent~~
11 ~~studies of sites proposed by the applicant))~~ enter into contracts to
12 carry out the provisions of this chapter;

13 (7) To conduct hearings on the proposed location and operational
14 conditions of the energy facilities under the regulatory authority
15 established in this chapter;

16 (8) To prepare written reports to the governor which shall
17 include: (a) A statement indicating whether the application is in
18 compliance with the council's guidelines, (b) criteria specific to
19 the site and transmission line routing, (c) a council recommendation
20 as to the disposition of the application, and (d) a draft
21 certification agreement when the council recommends approval of the
22 application;

23 (9) To prescribe the means for monitoring of the effects arising
24 from the construction and the operation of energy facilities to
25 assure continued compliance with terms of certification and/or
26 permits issued by the council pursuant to chapter 90.48 RCW or
27 subsection (12) of this section: PROVIDED, That any on-site
28 inspection required by the council shall be performed by other state
29 agencies pursuant to interagency agreement: PROVIDED FURTHER, That
30 the council may retain authority for determining compliance relative
31 to monitoring;

32 (10) To integrate its site evaluation activity with activities of
33 federal agencies having jurisdiction in such matters to avoid
34 unnecessary duplication;

35 (11) To present state concerns and interests to other states,
36 regional organizations, and the federal government on the location,
37 construction, and operation of any energy facility which may affect
38 the environment, health, or safety of the citizens of the state of
39 Washington;

1 (12) To issue permits in compliance with applicable provisions of
2 the federally approved state implementation plan adopted in
3 accordance with the Federal Clean Air Act, as now existing or
4 hereafter amended, for the new construction, reconstruction, or
5 enlargement or operation of energy facilities: PROVIDED, That such
6 permits shall become effective only if the governor approves an
7 application for certification and executes a certification agreement
8 pursuant to this chapter: AND PROVIDED FURTHER, That all such permits
9 be conditioned upon compliance with all provisions of the federally
10 approved state implementation plan which apply to energy facilities
11 covered within the provisions of this chapter; and

12 (13) To serve as an interagency coordinating body for energy-
13 related issues.

14 **Sec. 6.** RCW 80.50.060 and 2021 c 317 s 18 are each amended to
15 read as follows:

16 (1) (~~Except for biofuel refineries specified in RCW~~
17 ~~80.50.020(12)(g), the~~) (a) The provisions of this chapter apply to
18 the construction of energy facilities which includes the new
19 construction of energy facilities and the reconstruction or
20 enlargement of existing energy facilities where the net increase in
21 physical capacity or dimensions resulting from such reconstruction or
22 enlargement meets or exceeds those capacities or dimensions set forth
23 in RCW 80.50.020 (12) and (21). No construction or reconstruction of
24 such energy facilities may be undertaken, except as otherwise
25 provided in this chapter, (~~after July 15, 1977,~~) without first
26 obtaining certification in the manner provided in this chapter.

27 (~~(2) The provisions of this chapter apply to the construction,~~
28 ~~reconstruction, or enlargement of a new or existing biofuel refinery~~
29 ~~specified in RCW 80.50.020(12)(g) or a new or existing energy~~
30 ~~facility that exclusively uses alternative energy resources and~~
31 ~~chooses to receive certification under this chapter, regardless of~~
32 ~~the generating capacity of the project.~~

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

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

39 (ii) Alternative energy resource facilities;

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

5 (iv) Clean energy product manufacturing facilities; and

6 (v) Storage facilities.

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

11 (2)(a) The provisions of this chapter must apply to the
12 construction, reconstruction, or modification of electrical
13 transmission facilities when((÷

14 ~~(i) The)) the facilities are located in a national interest~~
15 ~~electric transmission corridor as specified in RCW 80.50.045((÷~~

16 ~~(ii) An applicant chooses to receive certification under this~~
17 ~~chapter, and the facilities are: (A) Of a nominal voltage of at least~~
18 ~~one hundred fifteen thousand volts and are located in a completely~~
19 ~~new corridor, except for the terminus of the new facility or~~
20 ~~interconnection of the new facility with the existing grid, and the~~
21 ~~corridor is not otherwise used for electrical transmission~~
22 ~~facilities; and (B) located in more than one jurisdiction that has~~
23 ~~promulgated land use plans or zoning ordinances; or~~

24 ~~(iii) An applicant chooses to receive certification under this~~
25 ~~chapter, and the facilities are: (A) Of a nominal voltage in excess~~
26 ~~of one hundred fifteen thousand volts; and (B) located outside an~~
27 ~~electrical transmission corridor identified in (a)(i) and (ii) of~~
28 ~~this subsection (3)).~~

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

1 ~~((4))~~ (3) The provisions of this chapter shall not apply to
2 normal maintenance and repairs which do not increase the capacity or
3 dimensions beyond those set forth in RCW 80.50.020 (12) and (21).

4 ~~((5))~~ (4) Applications for certification of energy facilities
5 made prior to July 15, 1977, shall continue to be governed by the
6 applicable provisions of law in effect on the day immediately
7 preceding July 15, 1977, with the exceptions of RCW ~~((80.50.190 and))~~
8 80.50.071 which shall apply to such prior applications and to site
9 certifications prospectively from July 15, 1977.

10 ~~((6))~~ (5) Applications for certification shall be upon forms
11 prescribed by the council and shall be supported by such information
12 and technical studies as the council may require.

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

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

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

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

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

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

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

1 complies with RCW 42.56.300, including the issues and proposed
2 resolutions.

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

7 NEW SECTION. Sec. 7. A new section is added to chapter 80.50
8 RCW to read as follows:

9 (1) A person proposing to construct, reconstruct, or enlarge a
10 clean energy product manufacturing facility may choose to receive
11 certification under this chapter.

12 (2) All of the council's powers with regard to energy facilities
13 apply to clean energy product manufacturing facilities, and such a
14 facility is subject to all provisions of this chapter that apply to
15 an energy facility.

16 **Sec. 8.** RCW 80.50.071 and 2016 sp.s. c 10 s 1 are each amended
17 to read as follows:

18 (1) The council shall receive all applications for energy
19 facility site certification. Each applicant shall pay actual costs
20 incurred by the council (~~(and the utilities and transportation~~
21 ~~commission))~~) in processing an application.

22 (a) Each applicant shall, at the time of application submission,
23 (~~(deposit with the utilities and transportation commission))~~) pay to
24 the council for deposit into the energy facility site evaluation
25 council account created in section 15 of this act an amount up to
26 fifty thousand dollars, or such greater amount as specified by the
27 council after consultation with the applicant. The council (~~(and the~~
28 ~~utilities and transportation commission))~~) shall charge costs against
29 the deposit if the applicant withdraws its application and has not
30 reimbursed (~~(the commission, on behalf of)~~) the council(~~(,)~~) for all
31 actual expenditures incurred in considering the application.

32 (b) The council may commission its own independent consultant
33 study to measure the consequences of the proposed energy facility on
34 the environment or any matter that it deems essential to an adequate
35 appraisal of the site. The council(~~(, after consultation with the~~
36 ~~utilities and transportation commission,)~~) shall provide an estimate
37 of the cost of the study to the applicant and consider applicant
38 comments.

1 (c) In addition to the deposit required under (a) of this
2 subsection, applicants must reimburse ~~((the utilities and
3 transportation commission, on behalf of))~~ the council~~((,))~~ for actual
4 expenditures that arise in considering the application, including the
5 cost of any independent consultant study. The ~~((utilities and
6 transportation commission, on behalf of the))~~ council~~((,))~~ shall
7 submit to each applicant an invoice of actual expenditures made
8 during the preceding calendar quarter in sufficient detail to explain
9 the expenditures. The applicant shall pay the ~~((utilities and
10 transportation commission))~~ council the amount of the invoice by the
11 due date.

12 (2) Each certificate holder shall pay ~~((to the utilities and
13 transportation commission))~~ the actual costs incurred by the council
14 for inspection and determination of compliance by the certificate
15 holder with the terms of the certification relative to monitoring the
16 effects of construction, operation, and site restoration of the
17 facility.

18 (a) Each certificate holder shall, within thirty days of
19 execution of the site certification agreement, ~~((deposit with the
20 utilities and transportation commission))~~ pay to the council for
21 deposit into the energy facility site evaluation council account
22 created in section 15 of this act an amount up to fifty thousand
23 dollars, or such greater amount as specified by the council after
24 consultation with the certificate holder. The council ~~((and the
25 utilities and transportation commission))~~ shall charge costs against
26 the deposit if the certificate holder ceases operations and has not
27 reimbursed ~~((the commission, on behalf of))~~ the council~~((,))~~ for all
28 actual expenditures incurred in conducting inspections and
29 determining compliance with the terms of the certification.

30 (b) In addition to the deposit required under (a) of this
31 subsection, certificate holders must reimburse ~~((the utilities and
32 transportation commission, on behalf of))~~ the council~~((,))~~ for actual
33 expenditures that arise in administering this chapter and determining
34 compliance. The council~~((, after consultation with the utilities and
35 transportation commission,))~~ shall submit to each certificate holder
36 an invoice of the expenditures actually made during the preceding
37 calendar quarter in sufficient detail to explain the expenditures.
38 The certificate holder shall pay ~~((the utilities and transportation
39 commission))~~ the amount of the invoice by the due date.

1 (3) If an applicant or certificate holder fails to provide the
2 initial deposit, or if subsequently required payments are not
3 received within thirty days following receipt of the invoice from the
4 council, the council may (a) in the case of the applicant, suspend
5 processing of the application until payment is received; or (b) in
6 the case of a certificate holder, suspend the certification.

7 (4) All payments required of the applicant or certificate holder
8 under this section are to be made to the (~~utilities and~~
9 ~~transportation commission who shall make payments as instructed by~~
10 ~~the council from the funds submitted~~) council for deposit into the
11 energy facility site evaluation council account created in section 15
12 of this act. All such funds shall be subject to state auditing
13 procedures. Any unexpended portions of the deposit shall be returned
14 to the applicant within sixty days following the conclusion of the
15 application process or to the certificate holder within sixty days
16 after a determination by the council that the certificate is no
17 longer required and there is no continuing need for compliance with
18 its terms. For purposes of this section, "conclusion of the
19 application process" means after the governor's decision granting or
20 denying a certificate and the expiration of any opportunities for
21 judicial review.

22 (5) (a) Upon receipt of an application for an energy facility site
23 certification proposing an energy plant or alternative energy
24 resource that is connected to electrical transmission facilities of a
25 nominal voltage of at least one hundred fifteen thousand volts, the
26 council shall notify in writing the United States department of
27 defense. The notification shall include, but not be limited to, the
28 following:

29 (i) A description of the proposed energy plant or alternative
30 energy resource;

31 (ii) The location of the site;

32 (iii) The placement of the energy plant or alternative energy
33 resource on the site;

34 (iv) The date and time by which comments must be received by the
35 council; and

36 (v) Contact information of the council and the applicant.

37 (b) The purpose of the written notification is to provide an
38 opportunity for the United States department of defense to comment
39 upon the application, and to identify potential issues relating to
40 the placement and operations of the energy plant or alternative

1 energy resource, before a site certification application is approved.
2 The time period set forth by the council for receipt of such comments
3 shall not extend the time period for the council's processing of the
4 application.

5 (c) In order to assist local governments required to notify the
6 United States department of defense under RCW 35.63.270, 35A.63.290,
7 and 36.01.320, the council shall post on its website the appropriate
8 information for contacting the United States department of defense.

9 **Sec. 9.** RCW 80.50.090 and 2006 c 205 s 3 and 2006 c 196 s 6 are
10 each reenacted and amended to read as follows:

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

16 (2) Subsequent to the informational public hearing, the council
17 shall conduct a public hearing to determine whether or not the
18 proposed site is consistent and in compliance with city, county, or
19 regional land use plans or zoning ordinances (~~(. If it is determined
20 that the proposed site does conform with existing land use plans or
21 zoning ordinances in effect as of the date of the application, the
22 city, county, or regional planning authority shall not thereafter
23 change such land use plans or zoning ordinances so as to affect the
24 proposed site)) on the date of the application.~~

25 (3) (a) After the submission of an environmental checklist and
26 prior to issuing a threshold determination that a facility is likely
27 to cause a significant adverse environmental impact under chapter
28 43.21C RCW, the director must notify the project applicant and
29 explain in writing the basis for its anticipated determination of
30 significance. Prior to issuing the threshold determination of
31 significance, the director must give the project applicant the option
32 of withdrawing and revising its application and the associated
33 environmental checklist to clarify or make changes to features of the
34 proposal that are designed to mitigate the impacts that were the
35 basis of the director's anticipated determination of significance.
36 The director shall make the threshold determination based upon the
37 changed or clarified proposal following the applicant's submittal.
38 The director must provide an opportunity for public comment on a
39 project for which a project applicant has withdrawn and revised the

1 application and environmental checklist and subsequently received a
2 threshold determination of nonsignificance or mitigated determination
3 of nonsignificance.

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

7 ~~((3))~~ (4) Prior to the issuance of a council recommendation to
8 the governor under RCW 80.50.100 a public hearing, conducted as an
9 adjudicative proceeding under chapter 34.05 RCW, the administrative
10 procedure act, shall be held.

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

18 (b) If the environmental impact of the proposed facility in an
19 application for certification is not significant or will be mitigated
20 to a nonsignificant level under RCW 43.21C.031, the council may limit
21 the topic of the public hearing conducted as an adjudicative
22 proceeding under this section to whether any land use plans or zoning
23 ordinances with which the proposed site is determined to be
24 inconsistent under subsection (2) of this section should be
25 preempted.

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

30 ~~((4))~~ (6) Additional public hearings shall be held as deemed
31 appropriate by the council in the exercise of its functions under
32 this chapter.

33 **Sec. 10.** RCW 80.50.100 and 2011 c 180 s 109 are each amended to
34 read as follows:

35 (1) (a) The council shall report to the governor its
36 recommendations as to the approval or rejection of an application for
37 certification within twelve months of receipt by the council of
38 ~~((such))~~ an application deemed complete by the director, or such
39 later time as is mutually agreed by the council and the applicant.

1 (b) The council shall review and consider comments received
2 during the application process in making its recommendation.

3 (c) In the case of an application filed prior to December 31,
4 2025, for certification of an energy facility proposed for
5 construction, modification, or expansion for the purpose of providing
6 generating facilities that meet the requirements of RCW 80.80.040 and
7 are located in a county with a coal-fired electric (~~generating~~
8 ~~[generation]~~) generation facility subject to RCW 80.80.040(3)(c),
9 the council shall expedite the processing of the application pursuant
10 to RCW 80.50.075 and shall report its recommendations to the governor
11 within one hundred eighty days of receipt by the council of such an
12 application, or a later time as is mutually agreed by the council and
13 the applicant.

14 (2) If the council recommends approval of an application for
15 certification, it shall also submit a draft certification agreement
16 with the report. The council shall include conditions in the draft
17 certification agreement to implement the provisions of this
18 chapter(~~(7)~~) including, but not limited to, conditions to protect
19 state (~~(or)~~), local governmental, or community interests, or
20 overburdened communities as defined in RCW 70A.02.010 affected by the
21 construction or operation of the (~~energy~~) facility, and conditions
22 designed to recognize the purpose of laws or ordinances, or rules or
23 regulations promulgated thereunder, that are preempted or superseded
24 pursuant to RCW 80.50.110 as now or hereafter amended.

25 (3)(a) Within (~~sixty~~) 60 days of receipt of the council's
26 report the governor shall take one of the following actions:

27 (i) Approve the application and execute the draft certification
28 agreement; or

29 (ii) Reject the application; or

30 (iii) Direct the council to reconsider certain aspects of the
31 draft certification agreement.

32 (b) The council shall reconsider such aspects of the draft
33 certification agreement by reviewing the existing record of the
34 application or, as necessary, by reopening the adjudicative
35 proceeding for the purposes of receiving additional evidence. Such
36 reconsideration shall be conducted expeditiously. The council shall
37 resubmit the draft certification to the governor incorporating any
38 amendments deemed necessary upon reconsideration. Within (~~sixty~~) 60
39 days of receipt of such draft certification agreement, the governor
40 shall either approve the application and execute the certification

1 agreement or reject the application. The certification agreement
2 shall be binding upon execution by the governor and the applicant.

3 (4) The rejection of an application for certification by the
4 governor shall be final as to that application but shall not preclude
5 submission of a subsequent application for the same site on the basis
6 of changed conditions or new information.

7 **Sec. 11.** RCW 80.50.175 and 1983 c 3 s 205 are each amended to
8 read as follows:

9 (1) In addition to all other powers conferred on the council
10 under this chapter, the council shall have the powers set forth in
11 this section.

12 ~~(2) ((The council, upon request of any potential applicant, is~~
13 ~~authorized, as provided in this section, to conduct a preliminary~~
14 ~~study of any potential site prior to receipt of an application for~~
15 ~~site certification. A fee of ten thousand dollars for each potential~~
16 ~~site, to be applied toward the cost of any study agreed upon pursuant~~
17 ~~to subsection (3) of this section, shall accompany the request and~~
18 ~~shall be a condition precedent to any action on the request by the~~
19 ~~council.~~

20 ~~(3) After receiving a request to study a potential site, the~~
21 ~~council shall commission its own independent consultant to study~~
22 ~~matters relative to the potential site. The study shall include, but~~
23 ~~need not be limited to, the preparation and analysis of environmental~~
24 ~~impact information for the proposed potential site and any other~~
25 ~~matter the council and the potential applicant deem essential to an~~
26 ~~adequate appraisal of the potential site. In conducting the study,~~
27 ~~the council is authorized to cooperate and work jointly with the~~
28 ~~county or counties in which the potential site is located, any~~
29 ~~federal, state, or local governmental agency that might be requested~~
30 ~~to comment upon the potential site, and any municipal or public~~
31 ~~corporation having an interest in the matter. The full cost of the~~
32 ~~study shall be paid by the potential applicant: PROVIDED, That such~~
33 ~~costs exceeding a total of ten thousand dollars shall be payable~~
34 ~~subject to the potential applicant giving prior approval to such~~
35 ~~excess amount.~~

36 ~~(4) Any study prepared by the council pursuant to subsection (3)~~
37 ~~of this section may be used in place of the "detailed statement"~~
38 ~~required by RCW 43.21C.030(2)(c) by any branch of government except~~
39 ~~the council created pursuant to chapter 80.50 RCW.~~

1 ~~(5) All payments required of the potential applicant under this~~
2 ~~section are to be made to the state treasurer, who in turn shall pay~~
3 ~~the consultant as instructed by the council. All such funds shall be~~
4 ~~subject to state auditing procedures. Any unexpended portions thereof~~
5 ~~shall be returned to the potential applicant.~~

6 ~~(6) Nothing in this section shall change the requirements for an~~
7 ~~application for site certification or the requirement of payment of a~~
8 ~~fee as provided in RCW 80.50.071, or change the time for disposition~~
9 ~~of an application for certification as provided in RCW 80.50.100.~~

10 ~~(7) Nothing in this section shall be construed as preventing a~~
11 ~~city or county from requiring any information it deems appropriate to~~
12 ~~make a decision approving a particular location.))~~ (a) The council,
13 upon agreement with any potential applicant, is authorized as
14 provided in this section to conduct a preliminary study of any
15 potential project prior to receipt of an application for site
16 certification. This preliminary study must be completed before any
17 environmental review or process under RCW 43.21C.031 is initiated. A
18 fee of \$10,000 for each potential project, to be applied toward the
19 cost of any study agreed upon pursuant to (b) of this subsection,
20 must accompany the agreement and is a condition precedent to any
21 action on the agreement by the council.

22 (b) Upon agreement with the potential applicant, the council may
23 commission its own independent consultant to study matters relative
24 to the potential project. In conducting the study, the council is
25 authorized to cooperate and work jointly with the county or counties
26 in which the potential project is located, any federal, state, local,
27 or tribal governmental agency that might be requested to comment on
28 the potential project, and any municipal or public corporation having
29 an interest in the matter. The full cost of the study must be paid by
30 the potential applicant. However, costs exceeding a total of \$10,000
31 are payable subject to the potential applicant giving prior approval
32 to such an excess amount.

33 (3) All payments required of the potential applicant under this
34 section must be deposited into the energy facility site evaluation
35 council account created in section 15 of this act. All of these funds
36 are subject to state auditing procedures. Any unexpended portions of
37 the funds must be returned to the potential applicant.

38 (4) If a potential applicant subsequently submits a formal
39 application for site certification to the council for a site where a
40 preliminary study was conducted, payments made under this section for

1 that study may be considered as payment towards the application fee
2 provided in RCW 80.50.071.

3 NEW SECTION. **Sec. 12.** A new section is added to chapter 80.50
4 RCW to read as follows:

5 (1) Except for the siting of electrical transmission facilities,
6 any potential applicant may request a preapplication review of a
7 proposed project. Council staff must review the preapplicant's draft
8 application materials and provide comments on either additional
9 studies or stakeholder and tribal input, or both, that should be
10 included in the formal application for site certification. Council
11 staff must inform affected federally recognized tribes under RCW
12 80.50.060 of the preapplication review. The department of archaeology
13 and historic preservation shall coordinate with the affected
14 federally recognized tribes and the applicant in order to assess
15 potential effects to tribal cultural resources, archaeological sites,
16 and sacred sites.

17 (2) After initial review, the director and the applicant may
18 agree on fees to be paid by the applicant so that council staff may
19 conduct further review and consultation, including contracting for
20 review by other parties.

21 **Sec. 13.** RCW 80.50.340 and 2007 c 325 s 4 are each amended to
22 read as follows:

23 (1) A preapplicant applying under RCW 80.50.330 shall pay to the
24 council a fee of ten thousand dollars to be applied to the cost of
25 the preapplication process as a condition precedent to any action by
26 the council, provided that costs in excess of this amount shall be
27 paid only upon prior approval by the preapplicant, and provided
28 further that any unexpended portions thereof shall be returned to the
29 preapplicant.

30 (2) The council shall consult with the preapplicant and prepare a
31 plan for the preapplication process which shall commence with an
32 informational public hearing within (~~sixty~~) 60 days after the
33 receipt of the preapplication fee as provided in RCW 80.50.090.

34 (3) The preapplication plan shall include but need not be limited
35 to:

36 (a) An initial consultation to explain the proposal and request
37 input from council staff, federal and state agencies, cities, towns,

1 counties, port districts, tribal governments, property owners, and
2 interested individuals;

3 (b) Where applicable, a process to guide negotiations between the
4 preapplicant and cities, towns, and counties within the corridor
5 proposed pursuant to RCW 80.50.330.

6 (4) Fees paid under this section must be deposited in the energy
7 facility site evaluation council account created in section 15 of
8 this act.

9 NEW SECTION. **Sec. 14.** A new section is added to chapter 41.06
10 RCW to read as follows:

11 In addition to the exemptions provided under RCW 41.06.070, the
12 provisions of this chapter do not apply to the following positions at
13 the energy facility site evaluation council: The director; the
14 personal secretary to the director and the council chair; and up to
15 two professional staff members.

16 NEW SECTION. **Sec. 15.** A new section is added to chapter 80.50
17 RCW to read as follows:

18 The energy facility site evaluation council account is created in
19 the custody of the state treasurer. All receipts from funds received
20 by the council for all payments, including fees, deposits, and
21 reimbursements received under this chapter must be deposited into the
22 account. Expenditures from the account may be used for purposes set
23 forth in this chapter. Only the chair of the council or the chair's
24 designee may authorize expenditures from the account. The account is
25 subject to allotment procedures under chapter 43.88 RCW, but an
26 appropriation is not required for expenditures.

27 **Sec. 16.** RCW 43.79A.040 and 2021 c 175 s 10 and 2021 c 108 s 5
28 are each reenacted and amended to read as follows:

29 (1) Money in the treasurer's trust fund may be deposited,
30 invested, and reinvested by the state treasurer in accordance with
31 RCW 43.84.080 in the same manner and to the same extent as if the
32 money were in the state treasury, and may be commingled with moneys
33 in the state treasury for cash management and cash balance purposes.

34 (2) All income received from investment of the treasurer's trust
35 fund must be set aside in an account in the treasury trust fund to be
36 known as the investment income account.

1 (3) The investment income account may be utilized for the payment
2 of purchased banking services on behalf of treasurer's trust funds
3 including, but not limited to, depository, safekeeping, and
4 disbursement functions for the state treasurer or affected state
5 agencies. The investment income account is subject in all respects to
6 chapter 43.88 RCW, but no appropriation is required for payments to
7 financial institutions. Payments must occur prior to distribution of
8 earnings set forth in subsection (4) of this section.

9 (4)(a) Monthly, the state treasurer must distribute the earnings
10 credited to the investment income account to the state general fund
11 except under (b), (c), and (d) of this subsection.

12 (b) The following accounts and funds must receive their
13 proportionate share of earnings based upon each account's or fund's
14 average daily balance for the period: The 24/7 sobriety account, the
15 Washington promise scholarship account, the Gina Grant Bull memorial
16 legislative page scholarship account, the Rosa Franklin legislative
17 internship program scholarship (~~(account)~~) account, the Washington
18 advanced college tuition payment program account, the Washington
19 college savings program account, the accessible communities account,
20 the Washington achieving a better life experience program account,
21 the community and technical college innovation account, the
22 agricultural local fund, the American Indian scholarship endowment
23 fund, the foster care scholarship endowment fund, the foster care
24 endowed scholarship trust fund, the contract harvesting revolving
25 account, the Washington state combined fund drive account, the
26 commemorative works account, the county enhanced 911 excise tax
27 account, the county road administration board emergency loan account,
28 the toll collection account, the developmental disabilities endowment
29 trust fund, the energy account, the energy facility site evaluation
30 council account, the fair fund, the family and medical leave
31 insurance account, the fish and wildlife federal lands revolving
32 account, the natural resources federal lands revolving account, the
33 food animal veterinarian conditional scholarship account, the forest
34 health revolving account, the fruit and vegetable inspection account,
35 the educator conditional scholarship account, the game farm
36 alternative account, the GET ready for math and science scholarship
37 account, the Washington global health technologies and product
38 development account, the grain inspection revolving fund, the
39 Washington history day account, the industrial insurance rainy day
40 fund, the juvenile accountability incentive account, the law

1 enforcement officers' and firefighters' plan 2 expense fund, the
2 local tourism promotion account, the low-income home rehabilitation
3 revolving loan program account, the multiagency permitting team
4 account, the northeast Washington wolf-livestock management account,
5 the produce railcar pool account, the public use general aviation
6 airport loan revolving account, the regional transportation
7 investment district account, the rural rehabilitation account, the
8 Washington sexual assault kit account, the stadium and exhibition
9 center account, the youth athletic facility account, the self-
10 insurance revolving fund, the children's trust fund, the Washington
11 horse racing commission Washington bred owners' bonus fund and
12 breeder awards account, the Washington horse racing commission class
13 C purse fund account, the individual development account program
14 account, the Washington horse racing commission operating account,
15 the life sciences discovery fund, the Washington state library-
16 archives building account, the reduced cigarette ignition propensity
17 account, the center for deaf and hard of hearing youth account, the
18 school for the blind account, the Millersylvania park trust fund, the
19 public employees' and retirees' insurance reserve fund, the school
20 employees' benefits board insurance reserve fund, the public
21 employees' and retirees' insurance account, the school employees'
22 insurance account, the long-term services and supports trust account,
23 the radiation perpetual maintenance fund, the Indian health
24 improvement reinvestment account, the department of licensing tuition
25 recovery trust fund, the student achievement council tuition recovery
26 trust fund, the tuition recovery trust fund, the industrial insurance
27 premium refund account, the mobile home park relocation fund, the
28 natural resources deposit fund, the Washington state health insurance
29 pool account, the federal forest revolving account, and the library
30 operations account.

31 (c) The following accounts and funds must receive (~~eighty~~) 80
32 percent of their proportionate share of earnings based upon each
33 account's or fund's average daily balance for the period: The advance
34 right-of-way revolving fund, the advanced environmental mitigation
35 revolving account, the federal narcotics asset forfeitures account,
36 the high occupancy vehicle account, the local rail service assistance
37 account, and the miscellaneous transportation programs account.

38 (d) Any state agency that has independent authority over accounts
39 or funds not statutorily required to be held in the custody of the
40 state treasurer that deposits funds into a fund or account in the

1 custody of the state treasurer pursuant to an agreement with the
2 office of the state treasurer shall receive its proportionate share
3 of earnings based upon each account's or fund's average daily balance
4 for the period.

5 (5) In conformance with Article II, section 37 of the state
6 Constitution, no trust accounts or funds shall be allocated earnings
7 without the specific affirmative directive of this section.

8 NEW SECTION. **Sec. 17.** A new section is added to chapter 80.50
9 RCW to read as follows:

10 (1) Those administrative powers, duties, and functions of the
11 utilities and transportation commission that were performed under the
12 provisions of this chapter for the council prior to the effective
13 date of this section are transferred to the council as set forth in
14 this act.

15 (2)(a) All reports, documents, surveys, books, records, files,
16 papers, or written material in the possession of the utilities and
17 transportation commission pertaining to the powers, duties, and
18 functions transferred must be delivered to the custody of the
19 council. All cabinets, furniture, office equipment, motor vehicles,
20 and other tangible property under the inventory of the utilities and
21 transportation commission for the council must be transferred to the
22 council. All funds, credits, or other assets held by the utilities
23 and transportation commission for the benefit of the council, of
24 which were paid to the utilities and transportation commission
25 pursuant to this chapter must be assigned to the council and
26 transferred to the energy facility site evaluation council account
27 created in section 15 of this act.

28 (b) Any appropriations made to the utilities and transportation
29 commission for the council to carrying out its powers, functions, and
30 duties transferred must, on the effective date of this section, be
31 transferred and credited to the council. Any funds received pursuant
32 to payment made under this chapter must be credited to the council
33 and deposited in the energy facility site evaluation council account
34 created in section 15 of this act.

35 (c) If any question arises as to the transfer of any personnel,
36 funds, books, documents, records, papers, files, equipment, or other
37 tangible property used or held in the exercise of the powers and the
38 performance of the duties and functions transferred, the director of

1 financial management shall decide as to the proper allocation and
2 certify the same to the state agencies concerned.

3 (3) All pending business before the utilities and transportation
4 commission pertaining to the powers, duties, and functions
5 transferred must be continued and acted upon by the council. All
6 existing contracts and obligations remain in full force and must be
7 performed by the council.

8 (4) The transfer of the powers, duties, functions, and personnel
9 of the utilities and transportation commission does not affect the
10 validity of any act performed before the effective date of this
11 section.

12 (5) If apportionments of budgeted or nonbudgeted funds are
13 required because of the transfers directed by this section, the
14 director of financial management shall certify the apportionments to
15 the agencies affected, the state auditor, and the state treasurer.
16 Each of these shall make the appropriate transfer and adjustments in
17 funds and appropriation accounts and equipment records in accordance
18 with the certification.

19 (6) All employees of the utilities and transportation commission
20 that are engaged in performing the powers, functions, and duties of
21 the council, are transferred to the council. All employees classified
22 under chapter 41.06 RCW, the state civil service law, assigned to the
23 council shall continue to perform their usual duties upon the same
24 terms as formerly, without any loss of rights, subject to any action
25 that may be appropriate thereafter in accordance with the laws and
26 rules governing state civil service law.

27 **Sec. 18.** RCW 80.50.075 and 2006 c 205 s 2 are each amended to
28 read as follows:

29 (1) Any person filing an application for certification of (~~an~~
30 ~~energy facility or an alternative energy resource~~) any facility
31 pursuant to this chapter may apply to the council for an expedited
32 processing of such an application. The application for expedited
33 processing shall be submitted to the council in such form and manner
34 and accompanied by such information as may be prescribed by council
35 rule. The council may grant an applicant expedited processing of an
36 application for certification upon finding that the environmental
37 impact of the proposed (~~energy~~) facility is not significant or will
38 be mitigated to a nonsignificant level under RCW 43.21C.031 and the
39 project is found under RCW 80.50.090(2) to be consistent and in

1 compliance with city, county, or regional land use plans or zoning
2 ordinances.

3 (2) Upon granting an applicant expedited processing of an
4 application for certification, the council shall not be required to:

5 (a) Commission an independent study to further measure the
6 consequences of the proposed (~~energy facility or alternative energy~~
7 ~~resource~~) facility on the environment, notwithstanding the other
8 provisions of RCW 80.50.071; nor

9 (b) Hold an adjudicative proceeding under chapter 34.05 RCW, the
10 administrative procedure act, on the application.

11 (3) The council shall adopt rules governing the expedited
12 processing of an application for certification pursuant to this
13 section.

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

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

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

3 (i) Energy facility siting under the jurisdiction of the energy
4 facility site evaluation council, including placement of new
5 renewable energy resources, such as wind and solar generation, pumped
6 storage, and batteries or new nonemitting electric generation
7 resources, and their contribution to resource adequacy;

8 (ii) Production of hydrogen, biofuels, and feedstocks for clean
9 fuels;

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

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

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

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

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

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

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

34 (i) Direct, indirect, and induced jobs in construction and
35 operations;

36 (ii) Financial returns to property owners;

37 (iii) Effects on local tax revenues and public services, which
38 must include whether any school districts had a net loss of resources
39 from diminished local effort assistance payments required under
40 chapter 28A.500 RCW;

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

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

5 (vi) Potential forms of economic development assistance and
6 impact mitigation payments; and

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

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

14 (d) By December 1, 2022, the department must submit an interim
15 report on rural clean energy and resilience to the joint committee on
16 energy supply, energy conservation, and energy resilience created in
17 RCW 44.39.010, the energy facility site evaluation council, and the
18 appropriate policy and fiscal committees of the legislature.

19 (e) By December 1, 2023, the department must submit a final
20 report on rural clean energy and resilience to the joint committee on
21 energy supply, energy conservation, and energy resilience created in
22 RCW 44.39.010, the energy facility site evaluation council, and the
23 appropriate policy and fiscal committees of the legislature.

24 (3) For the purposes of this section, "department" means the
25 department of commerce.

26 **Sec. 20.** RCW 44.39.010 and 2005 c 299 s 1 are each amended to
27 read as follows:

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

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

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

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

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

1 NEW SECTION. **Sec. 22.** (1)(a) The committee shall review the
2 following issues:

3 (i) Inequities in where large alternative energy projects,
4 including projects under the jurisdiction of the energy facility site
5 evaluation council, have been sited in Washington;

6 (ii) Inequities in where large alternative energy projects,
7 including projects under the jurisdiction of the energy facility site
8 evaluation council, are forecast to be sited in Washington; and

9 (iii) Forms of economic development assistance, mitigation
10 payments, and viewshed impairment payments that counties not hosting
11 their per capita share of alternative energy resources should provide
12 to counties that host more than their per capita share.

13 (b) In support of its obligations under (a) of this subsection,
14 the committee must review the report produced by the department of
15 commerce under section 19 of this act.

16 (2) The committee must hold at least four meetings, at least two
17 of which must be in eastern Washington. The first meeting of the
18 committee must occur by September 30, 2022.

19 (3) Relevant state agencies, departments, and commissions,
20 including the energy facility site evaluation council, shall
21 cooperate with the committee and provide information as the chair
22 reasonably requests.

23 (4) The committee shall report its findings and any
24 recommendations to the energy facility site evaluation council and
25 the committees of the legislature with jurisdiction over environment
26 and energy laws by December 1, 2023. Recommendations of the committee
27 may be made by a simple majority of committee members. In the event
28 that the committee does not reach majority-supported recommendations,
29 the committee may report minority findings supported by at least two
30 members of the committee.

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

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

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

37 (6) This section expires June 30, 2024.

38 NEW SECTION. **Sec. 23.** If specific funding for the purposes of
39 this act, referencing this act by bill or chapter number, is not

1 provided by June 30, 2022, in the omnibus appropriations act, this
2 act is null and void.

3 NEW SECTION. **Sec. 24.** This act takes effect June 30, 2022.

4 NEW SECTION. **Sec. 25.** The following acts or parts of acts are
5 each repealed:

6 (1) RCW 80.50.190 (Disposition of receipts from applicants) and
7 1977 ex.s. c 371 s 15; and

8 (2) RCW 80.50.904 (Effective date—1996 c 4) and 1996 c 4 s 6.

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