S-3569.2

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**SENATE BILL 6224**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Senators Brown, Braun, Hewitt, and Rivers

AN ACT Relating to energy facility site evaluation council procedure; amending RCW 80.50.075, 80.50.100, 80.50.330, and 80.50.340; and reenacting and amending RCW 80.50.090.

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

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

(1) Any person filing an application for certification of an energy facility or an alternative energy resource facility pursuant to this chapter may apply to the council for an expedited processing of such an application. The application for expedited processing shall be submitted to the council in such form and manner and accompanied by such information as may be prescribed by council rule. The council may grant an applicant expedited processing of an application for certification upon finding that the environmental impact of the proposed energy facility is not significant or will be mitigated to a nonsignificant level under RCW 43.21C.031 ((~~and the project is found under RCW 80.50.090(2) to be consistent and in compliance with city, county, or regional land use plans or zoning ordinances~~)).

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

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

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

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

(4) If the council conducts an informational public hearing for an application under this section, the council must conduct the hearing within thirty days of receipt of the application.

(5) An order by the council to grant expedited processing of an application under this section must be issued within sixty days of receipt of the application or such later time as is mutually agreed by the applicant and the council, if the council determines that the application satisfies the requirements for expedited processing under this section.

(6) Within thirty days following the granting of expedited processing or such later time as is mutually agreed by the applicant and the council, the council shall forward its recommendation, and if the recommendation is for approval, the council must also forward a copy of a draft site certification agreement to the governor.

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

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

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

~~(3)~~)) Prior to the issuance of a council recommendation to the governor under RCW 80.50.100 a public hearing, conducted as an adjudicative proceeding under chapter 34.05 RCW, the administrative procedure act, shall be held. At such public hearing any person shall be entitled to be heard in support of or in opposition to the application for certification. The council and all parties to the adjudicative proceeding shall make every reasonable effort to ensure that the council issues its recommendation to the governor under RCW 80.50.100 no later than six months after receipt of the application for site certification.

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

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

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

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

(2) If the council recommends approval of an application for certification, it shall also submit a draft certification agreement with the report. The council shall include conditions in the draft certification agreement to implement the provisions of this chapter, including, but not limited to, conditions to protect state or local governmental or community interests affected by the construction or operation of the energy facility, and conditions designed to recognize the purpose of laws or ordinances, or rules or regulations promulgated thereunder, that are preempted or superseded pursuant to RCW 80.50.110 as now or hereafter amended.

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

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

(ii) Reject the application; or

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

(b) The council shall reconsider such aspects of the draft certification agreement by reviewing the existing record of the application or, as necessary, by reopening the adjudicative proceeding for the purposes of receiving additional evidence. Such reconsideration shall be conducted expeditiously and may not exceed thirty days. The council shall resubmit the draft certification to the governor incorporating any amendments deemed necessary upon reconsideration. Within ((~~sixty~~)) thirty days of receipt of such draft certification agreement, the governor shall either approve the application and execute the certification agreement or reject the application. The certification agreement shall be binding upon execution by the governor and the applicant.

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

**Sec.**  RCW 80.50.330 and 2007 c 325 s 3 are each amended to read as follows:

(1) For applications to site electrical transmission facilities, the council shall conduct a preapplication process pursuant to rules adopted by the council to govern such process, receive applications as prescribed in RCW 80.50.071, and conduct public meetings pursuant to RCW 80.50.090.

(2) The council shall consider and may recommend certification of electrical transmission facilities in corridors designated for this purpose by affected cities, towns, or counties:

(a) Where the jurisdictions have identified electrical transmission facility corridors as part of their land use plans and zoning maps based on policies adopted in their plans;

(b) Where the proposed electrical transmission facility is consistent with any adopted development regulations that govern the siting of electrical transmission facilities in such corridors; and

(c) Where contiguous jurisdictions and jurisdictions in which related regional electrical transmission facilities are located have either prior to or during the preapplication process undertaken good faith efforts to coordinate the locations of their corridors consistent with RCW 36.70A.100.

(3)(a) In the absence of a corridor designation in the manner prescribed in subsection (2) of this section, the council shall as part of the preapplication process require the preapplicant to negotiate, as provided by rule adopted by the council, for a reasonable time with affected cities, towns, and counties to attempt to reach agreement about a corridor plan. The application for certification shall identify only the corridor agreed to by the applicant and cities, towns, and counties within the proposed corridor pursuant to the preapplication process.

(b) If no corridor plan is agreed to by the applicant and cities, towns, and counties pursuant to (a) of this subsection, the applicant shall propose a recommended corridor and electrical transmission facilities to be included within the proposed corridor.

(c) The council shall consider the applicant's proposed corridor and electrical transmission facilities as provided in RCW 80.50.090 ((~~(2) and (4),~~)) and shall make a recommendation consistent with RCW 80.50.090 and 80.50.100.

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

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

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

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

(a) An initial consultation to explain the proposal and request input from council staff, federal and state agencies, cities, towns, counties, port districts, tribal governments, property owners, and interested individuals;

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

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