
HOUSE BILL 1812

State of Washington

67th Legislature

2022 Regular Session

By Representatives Fitzgibbon, Wylie, Berry, Valdez, Pollet, and Harris-Talley; by request of Office of the Governor

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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, and 80.50.340; reenacting and amending RCW 80.50.030,
5 80.50.090, and 43.79A.040; adding new sections to chapter 80.50 RCW;
6 adding a new section to chapter 41.06 RCW; repealing RCW 80.50.190
7 and 80.50.904; and providing an effective date.

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

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

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

19 It is the policy of the state of Washington to reduce dependence
20 on fossil fuels by recognizing the need for clean energy in order to
21 strengthen the state's economy, meet the state's greenhouse gas

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

5 It is the policy of the state of Washington to recognize the
6 pressing need for increased energy facilities, and to ensure through
7 available and reasonable methods(~~(7)~~) that the location and operation
8 of (~~(such)~~) all energy facilities and certain clean energy product
9 manufacturing facilities will produce minimal adverse effects on the
10 environment, ecology of the land and its wildlife, and the ecology of
11 state waters and their aquatic life.

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

19 Such action will be based on these premises:

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

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

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

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

32 (~~((4))~~) (5) To avoid costs of complete site restoration and
33 demolition of improvements and infrastructure at unfinished nuclear
34 energy sites, and to use unfinished nuclear energy facilities for
35 public uses, including economic development, under the regulatory and
36 management control of local governments and port districts.

37 (~~((5))~~) (6) To avoid costly duplication in the siting process and
38 ensure that decisions are made timely and without unnecessary delay.

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

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

5 (1) "Alternative energy resource" includes energy facilities of
6 the following types: (a) Wind; (b) solar energy; (c) geothermal
7 energy; (d) ~~((landfill))~~ renewable natural gas; (e) wave or tidal
8 action; ~~((or))~~ (f) biomass energy based on solid organic fuels from
9 wood, forest, or field residues, or dedicated energy crops that do
10 not include wood pieces that have been treated with chemical
11 preservatives such as creosote, pentachlorophenol, or copper-chrome-
12 arsenic; (g) renewable or green electrolytic hydrogen; or (h)
13 facilities that retain energy, storing it by chemical, thermal,
14 mechanical, or other means for a period of time, then delivering
15 energy after storage.

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

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

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

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

39 (6) "Certification" means a binding agreement between an
40 applicant and the state which shall embody compliance to the siting

1 guidelines, in effect as of the date of certification, which have
2 been adopted pursuant to RCW 80.50.040 as now or hereafter amended as
3 conditions to be met prior to or concurrent with the construction or
4 operation of any energy facility.

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

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

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

13 (10) "Electrical transmission facilities" means electrical power
14 lines and related equipment.

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

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

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

25 (12) "Energy plant" means the following facilities together with
26 their associated facilities:

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

29 (b) Any nonnuclear stationary thermal power plant with generating
30 capacity of three hundred fifty thousand kilowatts or more, measured
31 using maximum continuous electric generating capacity, less minimum
32 auxiliary load, at average ambient temperature and pressure, and
33 floating thermal power plants of one hundred thousand kilowatts or
34 more suspended on the surface of water by means of a barge, vessel,
35 or other floating platform;

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

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

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

11 (f) Facilities capable of processing more than twenty-five
12 thousand barrels per day of petroleum or biofuel into refined
13 products except where such biofuel production is undertaken at
14 existing industrial facilities; and

15 (g) Facilities capable of producing more than one thousand five
16 hundred barrels per day of refined biofuel but less than twenty-five
17 thousand barrels of refined biofuel.

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

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

26 (15) "Person" means an individual, partnership, joint venture,
27 private or public corporation, association, firm, public service
28 company, political subdivision, municipal corporation, government
29 agency, public utility district, or any other entity, public or
30 private, however organized.

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

33 (17) "Preapplication process" means the process which is
34 initiated by written correspondence from the preapplicant to the
35 council, and includes the process adopted by the council for
36 consulting with the preapplicant and with cities, towns, and counties
37 prior to accepting applications for (~~all transmission facilities~~)
38 any facility.

39 (18) "Secretary" means the secretary of the United States
40 department of energy.

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

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

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

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

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

21 (22) "Zoning ordinance" means an ordinance of a unit of local
22 government regulating the use of land and adopted pursuant to chapter
23 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state
24 Constitution, or as otherwise designated by chapter 325, Laws of
25 2007.

26 (23) "Clean energy product manufacturing facility" means a
27 facility that exclusively or primarily manufactures the following
28 products or components of such products:

29 (a) Passenger cars, light duty trucks, medium duty passenger
30 vehicles, buses, commercial vehicles as defined in RCW 46.04.140, or
31 motorcycles, that emit no exhaust gas from the onboard source of
32 power, other than water vapor;

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

36 (c) Renewable or green electrolytic hydrogen, including preparing
37 renewable or green electrolytic hydrogen for distribution as an
38 energy carrier or manufacturing feedstock;

39 (d) Clean fuel that is reasonably anticipated to be determined
40 under chapter 70A.535 RCW to have life-cycle greenhouse gas emissions

1 not exceeding 80 percent of the 2017 levels established under RCW
2 70A.535.020;

3 (e) Equipment and products used to produce energy from
4 alternative energy resources; and

5 (f) Equipment that can retain energy, storing it by chemical,
6 thermal, mechanical, or other means for a period of time and then
7 delivering energy after storage.

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

11 (25)(a) "Green electrolytic hydrogen" means hydrogen produced
12 through electrolysis.

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

16 (26) "Renewable hydrogen" means hydrogen produced using renewable
17 resources both as the source for the hydrogen and the source for the
18 energy input into the production process.

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

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

25 (1) There is created and established the energy facility site
26 evaluation council.

27 (2) ~~((a))~~ The chair of the council shall be appointed by the
28 governor with the advice and consent of the senate, shall have a vote
29 on matters before the council, shall serve for a term coextensive
30 with the term of the governor, and is removable for cause. The chair
31 may designate a member of the council to serve as acting chair in the
32 event of the chair's absence. The salary of the chair shall be
33 determined under RCW 43.03.040. The chair is a "state employee" for
34 the purposes of chapter 42.52 RCW. As applicable, when attending
35 meetings of the council, members may receive reimbursement for travel
36 expenses in accordance with RCW 43.03.050 and 43.03.060, and are
37 eligible for compensation under RCW 43.03.250.

38 ~~((b) The chair or a designee shall execute all official~~
39 ~~documents, contracts, and other materials on behalf of the council.~~

1 ~~The Washington utilities and transportation commission shall provide~~
2 ~~all administrative and staff support for the council. The commission~~
3 ~~has supervisory authority over the staff of the council and shall~~
4 ~~employ such personnel as are necessary to implement this chapter. Not~~
5 ~~more than three such employees may be exempt from chapter 41.06 RCW.~~
6 ~~The council shall otherwise retain its independence in exercising its~~
7 ~~powers, functions, and duties and its supervisory control over~~
8 ~~nonadministrative staff support. Membership, powers, functions, and~~
9 ~~duties of the Washington state utilities and transportation~~
10 ~~commission and the council shall otherwise remain as provided by~~
11 ~~law.))~~

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

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

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

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

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

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

20 (i) The director of the department of ecology or the director's
21 designee;

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

24 (iii) The director of the department of commerce or the
25 director's designee;

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

28 (v) The commissioner of public lands or the commissioner's
29 designee.

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

35 (i) Department of agriculture;

36 (ii) Department of health;

37 (iii) Military department; and

38 (iv) Department of transportation.

39 ~~((c) Council membership is discretionary for agencies that~~
40 ~~choose to participate under (b) of this subsection only for~~

1 ~~applications that are filed with the council on or after May 8, 2001.~~
2 ~~For applications filed before May 8, 2001, council membership is~~
3 ~~mandatory for those agencies listed in (b) of this subsection.)~~

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

11 (5) The city legislative authority of every city within whose
12 corporate limits an energy facility is proposed to be located shall
13 appoint a member or designee as a voting member to the council. The
14 member or designee so appointed shall sit with the council only at
15 such times as the council considers the proposed site for the city
16 which he or she represents, and such member or designee shall serve
17 until there has been a final acceptance or rejection of the proposed
18 site.

19 (6) For any port district wherein an application for a proposed
20 port facility is filed subject to this chapter, the port district
21 shall appoint a member or designee as a nonvoting member to the
22 council. The member or designee so appointed shall sit with the
23 council only at such times as the council considers the proposed site
24 for the port district which he or she represents, and such member or
25 designee shall serve until there has been a final acceptance or
26 rejection of the proposed site. The provisions of this subsection
27 shall not apply if the port district is the applicant, either singly
28 or in partnership or association with any other person.

29 (7) The appropriate elected governing body or executive official
30 of up to two federally recognized tribes with ancestral lands in the
31 area where an energy facility is proposed to be located may each
32 appoint a member or designee as a voting member of the council. The
33 members or designees so appointed may sit with the council only at
34 such times as the council considers the proposed site in the tribes'
35 ancestral lands and the members or designees serve until there has
36 been a final acceptance or rejection of the proposed site.

37 (8) A quorum of the council consists of a majority of members
38 appointed for business to be conducted.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 80.50

2 RCW to read as follows:

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

6 (2) The chair of the council shall appoint a director to oversee
7 the operations of the council and carry out the duties of this
8 chapter as delegated by the chair. The chair of the council may
9 delegate to the director its status as appointing authority for the
10 council.

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

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

18 The council shall have the following powers:

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

23 (2) To develop and apply environmental and ecological guidelines
24 in relation to the type, design, location, construction, ~~((and))~~
25 initial operational conditions of certification, and ongoing
26 regulatory oversight of energy facilities subject to this chapter;

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

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

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

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

37 (7) To conduct ~~((hearings))~~ meetings on the proposed location and
38 operational conditions of the energy facilities under the regulatory
39 authority established in this chapter;

1 (8) To prepare written reports to the governor which shall
2 include: (a) A statement indicating whether the application is in
3 compliance with the council's guidelines, (b) criteria specific to
4 the site and transmission line routing, (c) a council recommendation
5 as to the disposition of the application, and (d) a draft
6 certification agreement when the council recommends approval of the
7 application;

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

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

20 (11) To present state concerns and interests to other states,
21 regional organizations, and the federal government on the location,
22 construction, and operation of any energy facility which may affect
23 the environment, health, or safety of the citizens of the state of
24 Washington;

25 (12) To issue permits in compliance with applicable provisions of
26 the federally approved state implementation plan adopted in
27 accordance with the Federal Clean Air Act, as now existing or
28 hereafter amended, for the new construction, reconstruction, or
29 enlargement or operation of energy facilities: PROVIDED, That such
30 permits shall become effective only if the governor approves an
31 application for certification and executes a certification agreement
32 pursuant to this chapter: AND PROVIDED FURTHER, That all such permits
33 be conditioned upon compliance with all provisions of the federally
34 approved state implementation plan which apply to energy facilities
35 covered within the provisions of this chapter; and

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

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

1 (1) Except for biofuel refineries specified in RCW
2 80.50.020(12)(g), the provisions of this chapter apply to the
3 construction of energy facilities which includes the new construction
4 of energy facilities and the reconstruction or enlargement of
5 existing energy facilities where the net increase in physical
6 capacity or dimensions resulting from such reconstruction or
7 enlargement meets or exceeds those capacities or dimensions set forth
8 in RCW 80.50.020 (12) and (21). No construction or reconstruction of
9 such energy facilities may be undertaken, except as otherwise
10 provided in this chapter, (~~after July 15, 1977,~~) without first
11 obtaining certification in the manner provided in this chapter.

12 (2) The provisions of this chapter apply to the construction,
13 reconstruction, or enlargement of a new or existing biofuel refinery
14 specified in RCW 80.50.020(12)(g) or a new or existing energy
15 facility that exclusively uses alternative energy resources and
16 chooses to receive certification under this chapter, regardless of
17 the generating capacity of the project.

18 (3)(a) The provisions of this chapter apply to the construction,
19 reconstruction, or modification of electrical transmission facilities
20 when:

21 (i) The facilities are located in a national interest electric
22 transmission corridor as specified in RCW 80.50.045; or

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

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

36 (b) For the purposes of this subsection, "modify" means a
37 significant change to an electrical transmission facility and does
38 not include the following: (i) Minor improvements such as the
39 replacement of existing transmission line facilities or supporting
40 structures with equivalent facilities or structures; (ii) the

1 relocation of existing electrical transmission line facilities; (iii)
2 the conversion of existing overhead lines to underground; or (iv) the
3 placing of new or additional conductors, supporting structures,
4 insulators, or their accessories on or replacement of supporting
5 structures already built.

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

9 (5) Applications for certification of energy facilities made
10 prior to July 15, 1977, shall continue to be governed by the
11 applicable provisions of law in effect on the day immediately
12 preceding July 15, 1977, with the exceptions of RCW (~~80.50.190~~ and)
13 80.50.071 which shall apply to such prior applications and to site
14 certifications prospectively from July 15, 1977.

15 (6) Applications for certification shall be upon forms prescribed
16 by the council and shall be supported by such information and
17 technical studies as the council may require.

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

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

22 (b) The appropriate city legislative authority or authorities
23 where the proposed facility is located; and

24 (c) The appropriate federally recognized tribal governments
25 affected by the proposed facility.

26 (8) The council must work with local governments where a project
27 is proposed to be sited in order to provide for meaningful
28 participation and input during siting review and compliance
29 monitoring.

30 (9) The council must work with all federally recognized tribal
31 governments affected by a proposed facility in order to provide for
32 meaningful participation and input during siting review and
33 compliance monitoring. Consistent with RCW 43.376.020, the chair and
34 designated staff must offer to conduct government-to-government
35 meetings to address tribal issues of concern. The chair must provide
36 regular meeting updates to the council throughout the application
37 review process. The report required in RCW 80.50.100 must include a
38 summary of the government-to-government meetings, including the
39 issues and proposed resolutions.

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

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

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

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

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

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

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

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

31 (ii) The location of the site;

32 (iii) The placement of the ~~((energy plant or alternative energy
33 resource))~~ proposed facility 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)) proposed facility, before a site certification
2 application is approved. The time period set forth by the council for
3 receipt of such comments shall not extend the time period for the
4 council's processing of the 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))
12 meeting in the county of the proposed site as soon as practicable but
13 not later than sixty days after receipt of an application for site
14 certification. However, the place of such public ((hearing)) meeting
15 shall be as close as practical to the proposed site.

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

25 (3) The director shall notify the applicant before making a
26 threshold determination that the facility, as proposed in the site
27 application, will have a probable significant, adverse environmental
28 impact under chapter 43.21C RCW and provide the applicant an
29 opportunity to amend the application.

30 ((+3)) (4) Prior to the issuance of a council recommendation to
31 the governor under RCW 80.50.100 a public hearing, conducted as an
32 adjudicative proceeding under chapter 34.05 RCW, the administrative
33 procedure act, shall be held. At such public hearing any person shall
34 be entitled to be heard in support of or in opposition to the
35 application for certification, provided that the person has raised
36 the issue in writing with specificity during the application review
37 process prior to the start of the adjudicative hearing. If the
38 environmental impact of the proposed facility in an application for
39 certification is not significant or will be mitigated to a

1 nonsignificant level under RCW 43.21C.031, the council may limit the
2 hearing under this section to whether any land use plans or zoning
3 ordinances with which the proposed site is determined to be
4 inconsistent under subsection (2) of this section should be
5 preempted.

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

10 ~~((4))~~ (6) Additional public ~~((hearings))~~ meetings shall be held
11 as deemed appropriate by the council in the exercise of its functions
12 under this chapter.

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

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

20 (b) In the case of an application filed prior to December 31,
21 2025, for certification of an energy facility proposed for
22 construction, modification, or expansion for the purpose of providing
23 generating facilities that meet the requirements of RCW 80.80.040 and
24 are located in a county with a coal-fired electric ~~((generating~~
25 ~~[generation]))~~ generation facility subject to RCW 80.80.040(3)(c),
26 the council shall expedite the processing of the application pursuant
27 to RCW 80.50.075 and shall report its recommendations to the governor
28 within one hundred eighty days of receipt by the council of such an
29 application, or a later time as is mutually agreed by the council and
30 the applicant.

31 (2) If the council recommends approval of an application for
32 certification, it shall also submit a draft certification agreement
33 with the report. The council shall include conditions in the draft
34 certification agreement to implement the provisions of this
35 chapter~~((7))~~ including, but not limited to, conditions to protect
36 state or local governmental or community interests affected by the
37 construction or operation of the ~~((energy))~~ facility, and conditions
38 designed to recognize the purpose of laws or ordinances, or rules or

1 regulations promulgated thereunder, that are preempted or superseded
2 pursuant to RCW 80.50.110 as now or hereafter amended.

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

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

7 (ii) Reject the application; or

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

10 (b) The council shall reconsider such aspects of the draft
11 certification agreement by reviewing the existing record of the
12 application or, as necessary, by reopening the adjudicative
13 proceeding for the purposes of receiving additional evidence. Such
14 reconsideration shall be conducted expeditiously. The council shall
15 resubmit the draft certification to the governor incorporating any
16 amendments deemed necessary upon reconsideration. Within sixty days
17 of receipt of such draft certification agreement, the governor shall
18 either approve the application and execute the certification
19 agreement or reject the application. The certification agreement
20 shall be binding upon execution by the governor and the applicant.

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

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

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

30 ~~(2) ((The council, upon request of any potential applicant, is
31 authorized, as provided in this section, to conduct a preliminary
32 study of any potential site prior to receipt of an application for
33 site certification. A fee of ten thousand dollars for each potential
34 site, to be applied toward the cost of any study agreed upon pursuant
35 to subsection (3) of this section, shall accompany the request and
36 shall be a condition precedent to any action on the request by the
37 council.~~

38 ~~(3) After receiving a request to study a potential site, the
39 council shall commission its own independent consultant to study~~

1 matters relative to the potential site. The study shall include, but
2 need not be limited to, the preparation and analysis of environmental
3 impact information for the proposed potential site and any other
4 matter the council and the potential applicant deem essential to an
5 adequate appraisal of the potential site. In conducting the study,
6 the council is authorized to cooperate and work jointly with the
7 county or counties in which the potential site is located, any
8 federal, state, or local governmental agency that might be requested
9 to comment upon the potential site, and any municipal or public
10 corporation having an interest in the matter. The full cost of the
11 study shall be paid by the potential applicant: PROVIDED, That such
12 costs exceeding a total of ten thousand dollars shall be payable
13 subject to the potential applicant giving prior approval to such
14 excess amount.

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

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

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

28 ~~(7) Nothing in this section shall be construed as preventing a~~
29 ~~city or county from requiring any information it deems appropriate to~~
30 ~~make a decision approving a particular location.))~~ (a) The council,
31 upon agreement with any potential applicant, is authorized as
32 provided in this section to conduct a preliminary study of any
33 potential project prior to receipt of an application for site
34 certification. This preliminary study is before any environmental
35 review or process under RCW 43.21C.031 is initiated. A fee of \$10,000
36 for each potential project, to be applied toward the cost of any
37 study agreed upon pursuant to (b) of this subsection, must accompany
38 the agreement and is a condition precedent to any action on the
39 agreement by the council.

1 (b) Upon agreement with the potential applicant, the council may
2 commission its own independent consultant to study matters relative
3 to the potential project. In conducting the study, the council is
4 authorized to cooperate and work jointly with the county or counties
5 in which the potential project is located, any federal, state, local,
6 or tribal governmental agency that might be requested to comment on
7 the potential project, and any municipal or public corporation having
8 an interest in the matter. The full cost of the study must be paid by
9 the potential applicant. However, costs exceeding a total of \$10,000
10 are payable subject to the potential applicant giving prior approval
11 to such an excess amount.

12 (3) All payments required of the potential applicant under this
13 section must be made to the energy facility site evaluation council
14 account created in section 15 of this act. All of these funds are
15 subject to state auditing procedures. Any unexpended portions of the
16 funds must be returned to the potential applicant.

17 (4) If a potential applicant subsequently submits a formal
18 application for site certification to the council for a site where a
19 preliminary study was conducted, payments made under this section for
20 that study may be considered as payment towards the application fee
21 provided in RCW 80.50.071.

22 NEW SECTION. Sec. 12. A new section is added to chapter 80.50
23 RCW to read as follows:

24 (1) Except for the siting of electrical transmission facilities,
25 any potential applicant may request a preapplication review of a
26 proposed project. Council staff must review the preapplicant's draft
27 application materials and provide comments on either additional
28 studies or stakeholder and tribal input, or both, that should be
29 included in the formal application for site certification.

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

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

36 (1) A preapplicant applying under RCW 80.50.330 shall pay to the
37 council a fee of ten thousand dollars to be applied to the cost of
38 the preapplication process as a condition precedent to any action by

1 the council, provided that costs in excess of this amount shall be
2 paid only upon prior approval by the preapplicant, and provided
3 further that any unexpended portions thereof shall be returned to the
4 preapplicant.

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

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

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

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

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

21 NEW SECTION. Sec. 14. A new section is added to chapter 41.06
22 RCW to read as follows:

23 In addition to the exemptions provided under RCW 41.06.070, the
24 provisions of this chapter do not apply to the following positions at
25 the energy facility site evaluation council: The director; the
26 personal secretary to the director and the council chair; and up to
27 two professional staff members.

28 NEW SECTION. Sec. 15. A new section is added to chapter 80.50
29 RCW to read as follows:

30 The energy facility site evaluation council account is created in
31 the custody of the state treasurer. All receipts from funds received
32 by the council for fees received under this chapter must be deposited
33 into the account. Expenditures from the account may be used for
34 purposes set forth in this chapter. Only the chair of the council or
35 the chair's designee may authorize expenditures from the account. The
36 account is subject to allotment procedures under chapter 43.88 RCW,
37 but an appropriation is not required for expenditures.

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

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

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

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

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

22 (b) The following accounts and funds must receive their
23 proportionate share of earnings based upon each account's or fund's
24 average daily balance for the period: The 24/7 sobriety account, the
25 Washington promise scholarship account, the Gina Grant Bull memorial
26 legislative page scholarship account, the Rosa Franklin legislative
27 internship program scholarship (~~(account)~~) account, the Washington
28 advanced college tuition payment program account, the Washington
29 college savings program account, the accessible communities account,
30 the Washington achieving a better life experience program account,
31 the community and technical college innovation account, the
32 agricultural local fund, the American Indian scholarship endowment
33 fund, the foster care scholarship endowment fund, the foster care
34 endowed scholarship trust fund, the contract harvesting revolving
35 account, the Washington state combined fund drive account, the
36 commemorative works account, the county enhanced 911 excise tax
37 account, the county road administration board emergency loan account,
38 the toll collection account, the developmental disabilities endowment
39 trust fund, the energy account, the energy facility site evaluation
40 council account, the fair fund, the family and medical leave

1 insurance account, the fish and wildlife federal lands revolving
2 account, the natural resources federal lands revolving account, the
3 food animal veterinarian conditional scholarship account, the forest
4 health revolving account, the fruit and vegetable inspection account,
5 the educator conditional scholarship account, the game farm
6 alternative account, the GET ready for math and science scholarship
7 account, the Washington global health technologies and product
8 development account, the grain inspection revolving fund, the
9 Washington history day account, the industrial insurance rainy day
10 fund, the juvenile accountability incentive account, the law
11 enforcement officers' and firefighters' plan 2 expense fund, the
12 local tourism promotion account, the low-income home rehabilitation
13 revolving loan program account, the multiagency permitting team
14 account, the northeast Washington wolf-livestock management account,
15 the produce railcar pool account, the public use general aviation
16 airport loan revolving account, the regional transportation
17 investment district account, the rural rehabilitation account, the
18 Washington sexual assault kit account, the stadium and exhibition
19 center account, the youth athletic facility account, the self-
20 insurance revolving fund, the children's trust fund, the Washington
21 horse racing commission Washington bred owners' bonus fund and
22 breeder awards account, the Washington horse racing commission class
23 C purse fund account, the individual development account program
24 account, the Washington horse racing commission operating account,
25 the life sciences discovery fund, the Washington state library-
26 archives building account, the reduced cigarette ignition propensity
27 account, the center for deaf and hard of hearing youth account, the
28 school for the blind account, the Millersylvania park trust fund, the
29 public employees' and retirees' insurance reserve fund, the school
30 employees' benefits board insurance reserve fund, the public
31 employees' and retirees' insurance account, the school employees'
32 insurance account, the long-term services and supports trust account,
33 the radiation perpetual maintenance fund, the Indian health
34 improvement reinvestment account, the department of licensing tuition
35 recovery trust fund, the student achievement council tuition recovery
36 trust fund, the tuition recovery trust fund, the industrial insurance
37 premium refund account, the mobile home park relocation fund, the
38 natural resources deposit fund, the Washington state health insurance
39 pool account, the federal forest revolving account, and the library
40 operations account.

1 (c) The following accounts and funds must receive eighty percent
2 of their proportionate share of earnings based upon each account's or
3 fund's average daily balance for the period: The advance right-of-way
4 revolving fund, the advanced environmental mitigation revolving
5 account, the federal narcotics asset forfeitures account, the high
6 occupancy vehicle account, the local rail service assistance account,
7 and the miscellaneous transportation programs account.

8 (d) Any state agency that has independent authority over accounts
9 or funds not statutorily required to be held in the custody of the
10 state treasurer that deposits funds into a fund or account in the
11 custody of the state treasurer pursuant to an agreement with the
12 office of the state treasurer shall receive its proportionate share
13 of earnings based upon each account's or fund's average daily balance
14 for the period.

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

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

20 (1) Those administrative powers, duties, and functions of the
21 utilities and transportation commission that were performed under the
22 provisions of this chapter for the council prior to the effective
23 date of this section are transferred to the council as set forth in
24 this act.

25 (2)(a) All reports, documents, surveys, books, records, files,
26 papers, or written material in the possession of the utilities and
27 transportation commission pertaining to the powers, duties, and
28 functions transferred must be delivered to the custody of the
29 council. All cabinets, furniture, office equipment, motor vehicles,
30 and other tangible property under the inventory of the utilities and
31 transportation commission for the council must be transferred to the
32 council. All funds, credits, or other assets held by the utilities
33 and transportation commission for the benefit of the council, of
34 which were paid to the utilities and transportation commission
35 pursuant to this chapter must be assigned to the council and
36 transferred to the energy facility site evaluation council account
37 created in section 15 of this act.

38 (b) Any appropriations made to the utilities and transportation
39 commission for the council to carrying out its powers, functions, and

1 duties transferred must, on the effective date of this section, be
2 transferred and credited to the council. Any funds received pursuant
3 to payment made under this chapter must be credited to the council
4 and deposited in the energy facility site evaluation council account
5 created in section 15 of this act.

6 (c) If any question arises as to the transfer of any personnel,
7 funds, books, documents, records, papers, files, equipment, or other
8 tangible property used or held in the exercise of the powers and the
9 performance of the duties and functions transferred, the director of
10 financial management shall decide as to the proper allocation and
11 certify the same to the state agencies concerned.

12 (3) All pending business before the utilities and transportation
13 commission pertaining to the powers, duties, and functions
14 transferred must be continued and acted upon by the council. All
15 existing contracts and obligations remain in full force and must be
16 performed by the council.

17 (4) The transfer of the powers, duties, functions, and personnel
18 of the utilities and transportation commission does not affect the
19 validity of any act performed before the effective date of this
20 section.

21 (5) If apportionments of budgeted or nonbudgeted funds are
22 required because of the transfers directed by this section, the
23 director of financial management shall certify the apportionments to
24 the agencies affected, the state auditor, and the state treasurer.
25 Each of these shall make the appropriate transfer and adjustments in
26 funds and appropriation accounts and equipment records in accordance
27 with the certification.

28 (6) All employees of the utilities and transportation commission
29 that are engaged in performing the powers, functions, and duties of
30 the council, are transferred to the council. All employees classified
31 under chapter 41.06 RCW, the state civil service law, assigned to the
32 council shall continue to perform their usual duties upon the same
33 terms as formerly, without any loss of rights, subject to any action
34 that may be appropriate thereafter in accordance with the laws and
35 rules governing state civil service law.

36 NEW SECTION. **Sec. 18.** This act takes effect June 30, 2022.

37 NEW SECTION. **Sec. 19.** The following acts or parts of acts are
38 each repealed:

1 (1) RCW 80.50.190 (Disposition of receipts from applicants) and
2 1977 ex.s. c 371 s 15; and
3 (2) RCW 80.50.904 (Effective date—1996 c 4) and 1996 c 4 s 6.

--- **END** ---