
SENATE BILL 5640

State of Washington

69th Legislature

2025 Regular Session

By Senators Boehnke and Dozier

Read first time 02/03/25. Referred to Committee on Environment,
Energy & Technology.

1 AN ACT Relating to requiring proof of adequate water supply
2 before permitting new energy facilities; and amending RCW 80.50.060.

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

4 **Sec. 1.** RCW 80.50.060 and 2023 c 229 s 4 are each amended to
5 read as follows:

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

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

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

21 (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:

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

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

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

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

35 (4) Applications for certification of energy facilities made
36 prior to July 15, 1977, shall continue to be governed by the
37 applicable provisions of law in effect on the day immediately
38 preceding July 15, 1977, with the exceptions of RCW 80.50.071 which
39 shall apply to such prior applications and to site certifications
40 prospectively from July 15, 1977.

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

4 (6) An application for certification of energy facilities must:

5 (a) Describe the location and type of water intakes, water lines,
6 pipelines and water conveyance systems, and other associated
7 facilities required for providing water to the energy facility for
8 which certification is being requested;

9 (b) Include detailed information regarding using air cooling as
10 an alternative to consumptive water use, including associated costs;

11 (c) Describe water conservation methods that will be used during
12 construction and operation of the facility;

13 (d) Include reports of examination identifying the water rights
14 or water right changes submitted to and under review by the
15 department of ecology and the quantities of water in gallons per
16 minute and acre feet per year that are eligible for change, together
17 with any limitations on use, including time of year. The reports of
18 examination must also include comments by the department of fish and
19 wildlife with respect to the proposed water right applications under
20 review by the department of ecology;

21 (e) Contain a description of mitigation proposed for water supply
22 and include any and all mitigation required by the department of
23 ecology pursuant to the review of water rights or certificates, or
24 changes to water rights or certificates required in (d) of this
25 subsection; and

26 (f) Describe all supply alternatives considered, including the
27 associated cost of implementing such alternatives, and the resulting
28 benefits and penalties that would be incurred.

29 (7) Applicants for certification of energy facilities under this
30 section shall:

31 (a) Consider water supply alternatives, including use of
32 reclaimed water, water reuse projects, and conservation methods; and

33 (b) If an applicant is proposing to use surface or groundwater
34 for the facility, describe the source and the amount of water
35 required during construction and operation of the energy facility and
36 do one or more of the following:

37 (i) Submit a water use authorization or a contractual right to
38 use water supplied by a municipal corporation or other water
39 purveyor;

1 (ii) Submit a water right permit or water right certificate
2 issued by the department of ecology for the proposed facility in an
3 amount sufficient to meet the need of the facility. If the permit or
4 certificate has been issued five years prior to the submittal date,
5 the applicant shall provide evidence that the water right permit is
6 in good standing, or that the certificate has not relinquished
7 through nonuse; or

8 (iii) For applications for new surface or groundwater
9 withdrawals, or applications for water right changes or transfers of
10 existing rights or certificates for withdrawal, submit appropriate
11 applications for such rights, certificates, or changes in rights and
12 certificates to the department of ecology prior to submittal of the
13 application for site certification to the council.

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

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

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

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

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

23 ~~((7))~~ (9) The council must work with local governments where a
24 project is proposed to be sited in order to provide for meaningful
25 participation and input during siting review and compliance
26 monitoring.

27 ~~((8))~~ (10) The council must consult with all federally
28 recognized tribes that possess resources, rights, or interests
29 reserved or protected by federal treaty, statute, or executive order
30 in the area where an energy facility is proposed to be located to
31 provide early and meaningful participation and input during siting
32 review and compliance monitoring. The chair and designated staff must
33 offer to conduct government-to-government consultation to address
34 issues of concern raised by such a tribe. The goal of the
35 consultation process is to identify tribal resources or rights
36 potentially affected by the proposed energy facility and to seek ways
37 to avoid, minimize, or mitigate any adverse effects on tribal
38 resources or rights. The chair must provide regular updates on the
39 consultation to the council throughout the application review
40 process. The report from the council to the governor required in RCW

1 80.50.100 must include a summary of the government-to-government
2 consultation process that complies with RCW 42.56.300, including the
3 issues and proposed resolutions.

4 ~~((9))~~ (11) The department of archaeology and historic
5 preservation shall coordinate with the affected federally recognized
6 tribes and the applicant in order to assess potential effects to
7 tribal cultural resources, archaeological sites, and sacred sites.

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