
SENATE BILL 6411

State of Washington

56th Legislature

2000 Regular Session

By Senators Spanel, Gardner, Brown, Fairley, Franklin, B. Sheldon, Shin, Kline, Patterson, Haugen, Kohl-Welles, Costa, Thibaudeau, Prentice, Fraser and Goings

Read first time 01/14/2000. Referred to Committee on Energy, Technology & Telecommunications.

1 AN ACT Relating to studying the energy facility siting process;
2 amending RCW 80.50.060; creating a new section; providing an expiration
3 date; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** (1) The joint legislative task force on
6 energy facility siting reform is hereby created. Membership of the
7 task force shall consist of eight legislators. Four members from the
8 senate, including two members from the majority party and two members
9 from the minority party, will be appointed by the president of the
10 senate. Four members from the house of representatives, including two
11 members from the majority party and two members from the minority
12 party, will be appointed by the co-speakers of the house of
13 representatives. Each body shall select representatives to the task
14 force from the committees with jurisdiction over energy, environmental
15 or ecology, and growth management or siting issues. The chair of the
16 task force shall be selected by the members of the task force.

17 (2) The joint legislative task force on energy facility siting
18 reform is charged with reviewing the current siting process for energy
19 facilities set forth in chapter 80.50 RCW for the purpose of

1 recommending statutory changes designed to modernize the siting process
2 to better respond to the significant regulatory, environmental,
3 technological, and economic changes affecting energy facility siting
4 decisions.

5 (3) In conducting its review, the task force shall consider and
6 address at least the following issues:

7 (a) The types and sizes of energy facilities regulated by the
8 energy facility site evaluation council, and recommendations of which
9 types and sizes, if any, should be sited and regulated by the state via
10 the council or some other model of state jurisdiction;

11 (b) The membership of the council and whether changes to the
12 membership or other elements of the process would facilitate more
13 effective coordination between the relevant state and local agencies
14 and more efficient communication and utilization of expertise within
15 the agencies;

16 (c) The processes involved in reviewing and taking action on
17 facility applications, including recommendations to: (i) Ensure broad
18 and meaningful public participation; (ii) improve the coordination and
19 reconciliation of the council process with the review processes
20 required under the state environmental policy act and the growth
21 management act; (iii) clarify the governor's role in reviewing council
22 recommendations or make the council decisions final adjudications
23 subject to direct review by the appropriate court; and (iv) improve
24 procedures and standards for amending site certification agreements to
25 address changes in the energy facility or use of all or a portion of
26 the site for nonenergy-related uses;

27 (d) The scope of preemption exercised by the council, including
28 whether and to what extent the council should have the authority to
29 preempt the proprietary and regulatory functions of local governments
30 and other state agencies;

31 (e) The involvement of local jurisdictions in the council's
32 proceedings, including recommendations to enhance consistency between
33 the state siting process and local land use regulations and growth
34 management siting processes;

35 (f) The balancing responsibility the council performs with respect
36 to determining the need for proposed facilities and balancing the
37 demand against the public interest in protecting the environment, and
38 whether clarification is needed to ensure consistency with the state
39 energy policy directives enacted subsequent to the siting requirements;

1 (g) The role of the counsel for the environment, and whether that
2 role should be expanded to include responsibilities for representing
3 the public interest in protecting public health and safety;

4 (h) The adequacy of current funding mechanisms to support the
5 participation of local jurisdictions, intervenors, and other interested
6 persons in council proceedings, and recommendations for reducing the
7 costs of participation or increasing the support for such
8 participation;

9 (i) The monitoring and oversight of permitted sites, and
10 recommendations whether the council should retain sole responsibility
11 for such activities or whether another agency or agencies would more
12 efficiently monitor and oversee permitted sites; and

13 (j) The location of facilities on public lands, including
14 recommendations identifying: (i) The appropriate public entity or
15 entities to interpret the applicable laws governing use of public
16 lands; and (ii) changes to eminent domain requirements that would allow
17 for more efficient siting of projects that are found to be in the
18 public interest and are certified for location on public land.

19 (4) The task force shall complete its review and submit its
20 recommendations in the form of a report to the legislature by December
21 1, 2000.

22 (5) This section expires June 30, 2001.

23 **Sec. 2.** RCW 80.50.060 and 1977 ex.s. c 371 s 5 are each amended to
24 read as follows:

25 (1) The provisions of this chapter shall apply to the construction
26 of energy facilities which includes the new construction of energy
27 facilities and the reconstruction or enlargement of existing energy
28 facilities where the net increase in physical capacity or dimensions
29 resulting from such reconstruction or enlargement meets or exceeds
30 those capacities or dimensions set forth in RCW 80.50.020 (7) and
31 (~~((17), as now or hereafter amended))~~ (14). No construction of such
32 energy facilities may be undertaken, except as otherwise provided in
33 this chapter, after July 15, 1977, without first obtaining
34 certification in the manner provided in this chapter.

35 (2) The provisions of this chapter shall not apply to normal
36 maintenance and repairs which do not increase the capacity or
37 dimensions beyond those set forth in RCW 80.50.020 (7) and (~~((17), as
38 now or hereafter amended))~~ (14).

1 (3) Applications for certification of energy facilities made
2 (~~prior to July 15, 1977 shall continue to be governed by the~~
3 ~~applicable provisions of law in effect on the day immediately preceding~~
4 ~~July 15, 1977 with the exceptions of RCW 80.50.190 and 80.50.071 which~~
5 ~~shall apply to such prior applications and to site certifications~~
6 ~~prospectively from July 15, 1977)) after January 1, 2000, and prior to
7 August 1, 2001, shall vest to any standards or requirements in effect
8 on August 1, 2001, or upon the issuance of a certificate by the
9 council, whichever comes first.~~

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

13 NEW SECTION. Sec. 3. Section 2 of this act is necessary for the
14 immediate preservation of the public peace, health, or safety, or
15 support of the state government and its existing public institutions,
16 and takes effect immediately.

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