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**SUBSTITUTE HOUSE BILL 2131**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives Crouse, Mielke, B. Chandler, Schindler, Dunn, Ahern, Pflug, Bush, DeBolt, Anderson, Schoesler, Jarrett, Woods, Delvin, Mitchell, Talcott and Benson)

Read first time 02/26/2001. Referred to Committee on .

1 AN ACT Relating to the energy facility site evaluation council;  
2 amending RCW 80.50.010, 80.50.060, 80.50.020, and 80.50.030; adding new  
3 sections to chapter 80.50 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that a sufficient and  
6 reliable supply of energy is critically important to the health and  
7 welfare of the citizens of the state and to the prosperity of the state  
8 and the region.

9 **Sec. 2.** RCW 80.50.010 and 1996 c 4 s 1 are each amended to read as  
10 follows:

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

1 It is the policy of the state of Washington to recognize the  
2 pressing need for increased energy facilities, and to ensure through  
3 available and reasonable methods, that the location and operation of  
4 such facilities will produce minimal adverse effects on the  
5 environment, ecology of the land and its wildlife, and the ecology of  
6 state waters and their aquatic life.

7 It is the intent to seek courses of action that will balance the  
8 increasing demands for energy facility location and operation in  
9 conjunction with the broad interests of the public. Such action will  
10 be based on these premises:

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

15 (2) To preserve and protect the quality of the environment; to  
16 enhance the public's opportunity to enjoy the esthetic and recreational  
17 benefits of the air, water and land resources; to promote air  
18 cleanliness; and to pursue beneficial changes in the environment.

19 (3) To provide abundant energy at reasonable cost.

20 (4) To avoid costs of complete site restoration and demolition of  
21 improvements and infrastructure at unfinished nuclear energy sites, and  
22 to use unfinished nuclear energy facilities for public uses, including  
23 economic development, under the regulatory and management control of  
24 local governments and port districts.

25 (5) To avoid costly duplication in the siting process and ensure  
26 that decisions are made timely and without unnecessary delay.

27 **Sec. 3.** RCW 80.50.060 and 1977 ex.s. c 371 s 5 are each amended to  
28 read as follows:

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

1       (2) An applicant for construction of a stationary thermal power  
2 plant with generating capacity of one hundred thousand kilowatts or  
3 more but less than three hundred fifty thousand kilowatts may request  
4 certification of the power plant under this chapter.

5       (3) The provisions of this chapter shall not apply to normal  
6 maintenance and repairs which do not increase the capacity or  
7 dimensions beyond those set forth in RCW 80.50.020 (7) and (~~((17),~~—as  
8 ~~now or hereafter amended~~)) (14).

9       (~~((3))~~) (4) Applications for certification of energy facilities  
10 made prior to July 15, 1977 shall continue to be governed by the  
11 applicable provisions of law in effect on the day immediately preceding  
12 July 15, 1977 with the exceptions of RCW 80.50.190 and 80.50.071 which  
13 shall apply to such prior applications and to site certifications  
14 prospectively from July 15, 1977.

15       (~~((4))~~) (5) Applications for certification shall be upon forms  
16 prescribed by the council and shall be supported by such information  
17 and technical studies as the council may require.

18       **Sec. 4.** RCW 80.50.020 and 1995 c 69 s 1 are each amended to read  
19 as follows:

20       The definitions in this section apply throughout this chapter  
21 unless the context clearly requires otherwise.

22       (1) "Applicant" means any person who makes application for a site  
23 certification pursuant to the provisions of this chapter(~~((7))~~).

24       (2) "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(~~((7))~~).

27       (3) "Person" means an individual, partnership, joint venture,  
28 private or public corporation, association, firm, public service  
29 company, political subdivision, municipal corporation, government  
30 agency, public utility district, or any other entity, public or  
31 private, however organized(~~((7))~~).

32       (4) "Site" means any proposed or approved location of an energy  
33 facility(~~((7))~~).

34       (5) "Certification" means a binding agreement between an applicant  
35 and the state which shall embody compliance to the siting guidelines,  
36 in effect as of the date of certification, which have been adopted  
37 pursuant to RCW 80.50.040 as now or hereafter amended as conditions to

1 be met prior to or concurrent with the construction or operation of any  
2 energy facility((+)).

3 (6) "Associated facilities" means storage, transmission, handling,  
4 or other related and supporting facilities connecting an energy plant  
5 with the existing energy supply, processing, or distribution system,  
6 including, but not limited to, communications, controls, mobilizing or  
7 maintenance equipment, instrumentation, and other types of ancillary  
8 transmission equipment, off-line storage or venting required for  
9 efficient operation or safety of the transmission system and overhead,  
10 and surface or subsurface lines of physical access for the inspection,  
11 maintenance, and safe operations of the transmission facility and new  
12 transmission lines constructed to operate at nominal voltages in excess  
13 of 200,000 volts to connect a thermal power plant to the northwest  
14 power grid: PROVIDED, That common carrier railroads or motor vehicles  
15 shall not be included((+)).

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

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

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

30 (8) "Independent consultants" means those persons who have no  
31 financial interest in the applicant's proposals and who are retained by  
32 the council to evaluate the applicant's proposals, supporting studies,  
33 or to conduct additional studies((+)).

34 (9) "Thermal power plant" means, for the purpose of certification,  
35 any electrical generating facility using any fuel, including nuclear  
36 materials, for distribution of electricity by electric utilities((+)).

37 (10) "Energy facility" means an energy plant or transmission  
38 facilities: PROVIDED, That the following are excluded from the  
39 provisions of this chapter:

1 (a) Facilities for the extraction, conversion, transmission or  
2 storage of water, other than water specifically consumed or discharged  
3 by energy production or conversion for energy purposes; and

4 (b) Facilities operated by and for the armed services for military  
5 purposes or by other federal authority for the national defense((†)).  
6

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

10 (12) "Counsel for the environment" means an assistant attorney  
11 general or a special assistant attorney general who shall represent the  
12 public in accordance with RCW 80.50.080((†)).  
13

14 (13) "Construction" means on-site improvements, excluding  
15 exploratory work, which cost in excess of two hundred fifty thousand  
16 dollars((†)).  
17

18 (14) "Energy plant" means the following facilities together with  
19 their associated facilities:  
20

21 (a) Any stationary thermal power plant with generating capacity of  
22 ((two)) three hundred fifty thousand kilowatts or more, measured using  
23 maximum continuous electric generating capacity, less minimum auxiliary  
24 load, at average ambient temperature and pressure, and floating thermal  
25 power plants of fifty thousand kilowatts or more, including associated  
26 facilities;  
27

28 (b) Facilities which will have the capacity to receive liquified  
29 natural gas in the equivalent of more than one hundred million standard  
30 cubic feet of natural gas per day, which has been transported over  
31 marine waters;  
32

33 (c) Facilities which will have the capacity to receive more than an  
34 average of fifty thousand barrels per day of crude or refined petroleum  
35 or liquified petroleum gas which has been or will be transported over  
36 marine waters, except that the provisions of this chapter shall not  
37 apply to storage facilities unless occasioned by such new facility  
38 construction;  
39

40 (d) Any underground reservoir for receipt and storage of natural  
41 gas as defined in RCW 80.40.010 capable of delivering an average of  
42 more than one hundred million standard cubic feet of natural gas per  
43 day; and  
44

45 (e) Facilities capable of processing more than twenty-five thousand  
46 barrels per day of petroleum into refined products((†)).  
47

1 (15) "Land use plan" means a comprehensive plan or land use element  
2 thereof adopted by a unit of local government pursuant to chapters  
3 35.63, 35A.63, or 36.70 RCW(~~(+)~~).

4 (16) "Zoning ordinance" means an ordinance of a unit of local  
5 government regulating the use of land and adopted pursuant to chapters  
6 35.63, 35A.63, or 36.70 RCW or Article XI of the state Constitution.

7 **Sec. 5.** RCW 80.50.030 and 1996 c 186 s 108 are each amended to  
8 read as follows:

9 (1) There is created and established the energy facility site  
10 evaluation council.

11 (2)(a) The (~~(chairman)~~) chair of the council shall be appointed by  
12 the governor with the advice and consent of the senate, shall have a  
13 vote on matters before the council, shall serve for a term coextensive  
14 with the term of the governor, and is removable for cause. The  
15 (~~(chairman)~~) chair may designate a member of the council to serve as  
16 acting (~~(chairman)~~) chair in the event of the (~~(chairman's)~~) chair's  
17 absence. The salary of the chair shall be determined under RCW  
18 43.03.040. The (~~(chairman)~~) chair is a "state employee" for the  
19 purposes of chapter 42.52 RCW. As applicable, when attending meetings  
20 of the council, members may receive reimbursement for travel expenses  
21 in accordance with RCW 43.03.050 and 43.03.060, and are eligible for  
22 compensation under RCW 43.03.250.

23 (b) The (~~(chairman)~~) chair or a designee shall execute all official  
24 documents, contracts, and other materials on behalf of the council.  
25 The Washington state department of community, trade, and economic  
26 development shall provide all administrative and staff support for the  
27 council. The director of the department of community, trade, and  
28 economic development has supervisory authority over the staff of the  
29 council and shall employ such personnel as are necessary to implement  
30 this chapter. Not more than three such employees may be exempt from  
31 chapter 41.06 RCW.

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

- 35 (~~((a))~~) (i) Department of ecology;  
36 (~~((b))~~) (ii) Department of fish and wildlife;  
37 (~~((c) Department of health;~~  
38 ~~(d) Military department;~~

1       ~~(e))~~ (iii) Department of community, trade, and economic  
2 development;  
3       ~~((f))~~ (iv) Utilities and transportation commission; and  
4       ~~((g))~~ (v) Department of natural resources(~~(~~  
5       ~~(h)~~ ~~Department of agriculture;~~  
6       ~~(i)~~ ~~Department of transportation)~~).

7       (b) The directors, administrators, or their designees, of the  
8 following departments, agencies, and commissions, or their statutory  
9 successors, may sit with the council as a voting member when an  
10 application for a proposed site affects issues over which the  
11 department, agency, or commission has jurisdiction:

- 12       (i) Department of agriculture;
- 13       (ii) Department of health;
- 14       (iii) Military department; and
- 15       (iv) Department of transportation.

16       If a department under this subsection (3)(b) chooses to participate  
17 as a member of the council for a particular application, the department  
18 representative must begin participation no later than sixty days after  
19 the application is filed.

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

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

34       (6) For any port district wherein an application for a proposed  
35 port facility is filed subject to this chapter, the port district shall  
36 appoint a member or designee as a nonvoting member to the council. The  
37 member or designee so appointed shall sit with the council only at such  
38 times as the council considers the proposed site for the port district  
39 which he or she represents, and such member or designee shall serve

1 until there has been a final acceptance or rejection of the proposed  
2 site. The provisions of this subsection shall not apply if the port  
3 district is the applicant, either singly or in partnership or  
4 association with any other person.

5 NEW SECTION. **Sec. 6.** A new section is added to chapter 80.50 RCW  
6 to read as follows:

7 (1) After the council has received a site application, council  
8 staff shall assist applicants in identifying issues presented by the  
9 application.

10 (2) Council staff shall review all information submitted and  
11 recommend resolutions to issues in dispute that would allow site  
12 approval.

13 (3) Council staff may make recommendations to the council on  
14 conditions that would allow site approval.

15 (4) The council shall ensure that sufficient staff are available to  
16 support thorough council review of all applications.

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

19 Where the need for adequate and reasonably priced energy conflicts  
20 with the objectives of a participating agency, an agency's  
21 representative to the council shall give priority to the directives of  
22 this chapter.

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

25 The governor shall undertake an evaluation of the operations of the  
26 council to assess means to enhance its efficiency. The assessment must  
27 include whether the efficiency of the siting process would be improved  
28 by conducting the process under the state environmental policy act in  
29 a particular sequence relative to the adjudicative proceeding. The  
30 results of this assessment may include recommendations for  
31 administrative changes, statutory changes, or expanded staffing levels.  
32 The governor shall implement the recommendations for enhanced  
33 efficiency of the energy facility siting process.

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