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HOUSE BILL 2620

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State of Washington

64th Legislature

2016 Regular Session

By Representatives Tarleton and Smith; by request of Utilities & Transportation Commission

Read first time 01/18/16. Referred to Committee on Technology & Economic Development.

1 AN ACT Relating to administrative processes for the utilities and  
2 transportation commission in managing deposits and cost  
3 reimbursements of the energy facility site evaluation council;  
4 amending RCW 80.50.071; and creating a new section.

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

6 **Sec. 1.** RCW 80.50.071 and 2011 c 261 s 1 are each amended to  
7 read as follows:

8 (1) The council shall receive all applications for energy  
9 facility site certification. Each applicant shall pay ~~((such~~  
10 ~~reasonable))~~ actual costs ~~((as are actually and necessarily))~~  
11 incurred by the council and the utilities and transportation  
12 commission in processing an application.

13 (a) Each applicant shall, at the time of application submission,  
14 deposit with the utilities and transportation commission an amount up  
15 to fifty thousand dollars, or such greater amount as ~~((may be))~~  
16 specified by the council after consultation with the applicant.  
17 ~~((Costs that may be charged against the deposit include, but are not~~  
18 ~~limited to, independent consultants' costs, councilmember's wages,~~  
19 ~~employee benefits, costs of a hearing examiner, costs of a court~~  
20 ~~reporter, staff salaries, wages and employee benefits, goods and~~  
21 ~~services, travel expenses, and miscellaneous direct expenses as arise~~

1 ~~directly from processing an application.))~~ The council and the  
2 utilities and transportation commission shall charge costs against  
3 the deposit if the applicant withdraws its application and has not  
4 reimbursed the commission, on behalf of the council, for all actual  
5 expenditures incurred in considering the application.

6 (b) The council may commission its own independent consultant  
7 study to measure the consequences of the proposed energy facility on  
8 the environment or any matter that it deems essential to an adequate  
9 appraisal of the site. The council, after consultation with the  
10 utilities and transportation commission, shall provide an estimate of  
11 the cost of the study to the applicant and consider applicant  
12 comments.

13 (c) In addition to the deposit required under (a) of this  
14 subsection, applicants must reimburse the utilities and  
15 transportation commission, on behalf of the council, for actual  
16 expenditures that arise in considering the application, including the  
17 cost of any independent consultant study. The utilities and  
18 transportation commission, on behalf of the council, shall submit to  
19 each applicant ((a statement)) an invoice of ((such)) actual  
20 expenditures made during the preceding calendar quarter ((which shall  
21 be)) in sufficient detail to explain ((such)) the expenditures. The  
22 applicant shall pay the ((state treasurer)) utilities and  
23 transportation commission the amount of ((such statement to restore  
24 the total amount on deposit to the originally established level:  
25 PROVIDED, That such applicant may, at the request of the council,  
26 increase the amount of funds on deposit to cover anticipated expenses  
27 during peak periods of application processing. Any funds remaining  
28 unexpended at the conclusion of application processing shall be  
29 refunded to the applicant, or at the applicant's option, credited  
30 against required deposits of certificate holders)) the invoice by the  
31 due date.

32 (2) Each certificate holder shall pay ~~((such reasonable costs as~~  
33 ~~are actually and necessarily))~~ to the utilities and transportation  
34 commission the actual costs incurred by the council for inspection  
35 and determination of compliance by the certificate holder with the  
36 terms of the certification relative to monitoring the effects of  
37 construction, operation, and site restoration of the facility.

38 (a) Each certificate holder shall, within thirty days of  
39 execution of the site certification agreement, ~~((shall have on))~~  
40 deposit with the utilities and transportation commission an amount up

1 to fifty thousand dollars, or such greater amount as ~~((may be))~~  
2 specified by the council after consultation with the certificate  
3 holder. ~~((Costs that may be charged against the deposit include, but~~  
4 ~~are not limited to, those specified in subsection (1)(a) of this~~  
5 ~~section as arise from inspection and determination of compliance by~~  
6 ~~the certificate holder with the terms of the certification.))~~ The  
7 council and the utilities and transportation commission shall charge  
8 costs against the deposit if the certificate holder ceases operations  
9 and has not reimbursed the commission, on behalf of the council, for  
10 all actual expenditures incurred in conducting inspections and  
11 determining compliance with the terms of the certification.

12 (b) In addition to the deposit required under (a) of this  
13 subsection, certificate holders must reimburse the utilities and  
14 transportation commission, on behalf of the council, for actual  
15 expenditures that arise in administering this chapter and determining  
16 compliance. The council, after consultation with the utilities and  
17 transportation commission, shall submit to each certificate holder  
18 ~~((a statement))~~ an invoice of ~~((such))~~ the expenditures actually made  
19 during the preceding calendar quarter ~~((which shall be))~~ in  
20 sufficient detail to explain ~~((such))~~ the expenditures. The  
21 certificate holder shall pay the ~~((state treasurer))~~ utilities and  
22 transportation commission the amount of ~~((such statement to restore~~  
23 ~~the total amount on deposit to the originally established level:~~  
24 ~~PROVIDED, That if the actual expenditures for inspection and~~  
25 ~~determination of compliance in the preceding calendar quarter have~~  
26 ~~exceeded the amount of funds on deposit, such excess costs shall be~~  
27 ~~paid by the certificate holder))~~ the invoice by the due date.

28 (3) If an applicant or certificate holder fails to provide the  
29 initial deposit, or if subsequently required payments are not  
30 received within thirty days following receipt of the ~~((statement))~~  
31 invoice from the council, the council may (a) in the case of the  
32 applicant, suspend processing of the application until payment is  
33 received; or (b) in the case of a certificate holder, suspend the  
34 certification.

35 (4) All payments required of the applicant or certificate holder  
36 under this section are to be made to the ~~((state treasurer))~~  
37 utilities and transportation commission who shall make payments as  
38 instructed by the council from the funds submitted. All such funds  
39 shall be subject to state auditing procedures. Any unexpended  
40 portions ~~((thereof))~~ of the deposit shall be returned to the

1 applicant (~~or certificate holder~~) within sixty days following the  
2 conclusion of the application process or to the certificate holder  
3 within sixty days after a determination by the council that the  
4 certificate is no longer required and there is no continuing need for  
5 compliance with its terms. For purposes of this section, "conclusion  
6 of the application process" means after the governor's decision  
7 granting or denying a certificate and the expiration of any  
8 opportunities for judicial review.

9 (5)(a) Upon receipt of an application for an energy facility site  
10 certification proposing an energy plant or alternative energy  
11 resource that is connected to electrical transmission facilities of a  
12 nominal voltage of at least one hundred fifteen thousand volts, the  
13 council shall notify in writing the United States department of  
14 defense. The notification shall include, but not be limited to, the  
15 following:

16 (i) A description of the proposed energy plant or alternative  
17 energy resource;

18 (ii) The location of the site;

19 (iii) The placement of the energy plant or alternative energy  
20 resource on the site;

21 (iv) The date and time by which comments must be received by the  
22 council; and

23 (v) Contact information of the council and the applicant.

24 (b) The purpose of the written notification is to provide an  
25 opportunity for the United States department of defense to comment  
26 upon the application, and to identify potential issues relating to  
27 the placement and operations of the energy plant or alternative  
28 energy resource, before a site certification application is approved.  
29 The time period set forth by the council for receipt of such comments  
30 shall not extend the time period for the council's processing of the  
31 application.

32 (c) In order to assist local governments required to notify the  
33 United States department of defense under RCW 35.63.270, 35A.63.290,  
34 and 36.01.320, the council shall post on its web site the appropriate  
35 information for contacting the United States department of defense.

36 NEW SECTION. **Sec. 2.** Nothing in this act extends or modifies  
37 the jurisdiction of the energy facility site evaluation council or  
38 the utilities and transportation commission with respect to any  
39 energy facility that is not subject to the jurisdiction of the energy

1 facility site evaluation council or the utility and transportation  
2 commission as of the effective date of this section.

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