

---

SENATE BILL 6224

---

State of Washington

64th Legislature

2016 Regular Session

By Senators Brown, Braun, Hewitt, and Rivers

Read first time 01/13/16. Referred to Committee on Energy,  
Environment & Telecommunications.

1 AN ACT Relating to energy facility site evaluation council  
2 procedure; amending RCW 80.50.075, 80.50.100, 80.50.330, and  
3 80.50.340; and reenacting and amending RCW 80.50.090.

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

5 **Sec. 1.** RCW 80.50.075 and 2006 c 205 s 2 are each amended to  
6 read as follows:

7 (1) Any person filing an application for certification of an  
8 energy facility or an alternative energy resource facility pursuant  
9 to this chapter may apply to the council for an expedited processing  
10 of such an application. The application for expedited processing  
11 shall be submitted to the council in such form and manner and  
12 accompanied by such information as may be prescribed by council rule.  
13 The council may grant an applicant expedited processing of an  
14 application for certification upon finding that the environmental  
15 impact of the proposed energy facility is not significant or will be  
16 mitigated to a nonsignificant level under RCW 43.21C.031 (~~and the~~  
17 ~~project is found under RCW 80.50.090(2) to be consistent and in~~  
18 ~~compliance with city, county, or regional land use plans or zoning~~  
19 ~~ordinances)).~~

20 (2) Upon granting an applicant expedited processing of an  
21 application for certification, the council shall not be required to:

1 (a) Commission an independent study to further measure the  
2 consequences of the proposed energy facility or alternative energy  
3 resource facility on the environment, notwithstanding the other  
4 provisions of RCW 80.50.071; nor

5 (b) Hold an adjudicative proceeding under chapter 34.05 RCW, the  
6 administrative procedure act, on the application.

7 (3) The council shall adopt rules governing the expedited  
8 processing of an application for certification pursuant to this  
9 section.

10 (4) If the council conducts an informational public hearing for  
11 an application under this section, the council must conduct the  
12 hearing within thirty days of receipt of the application.

13 (5) An order by the council to grant expedited processing of an  
14 application under this section must be issued within sixty days of  
15 receipt of the application or such later time as is mutually agreed  
16 by the applicant and the council, if the council determines that the  
17 application satisfies the requirements for expedited processing under  
18 this section.

19 (6) Within thirty days following the granting of expedited  
20 processing or such later time as is mutually agreed by the applicant  
21 and the council, the council shall forward its recommendation, and if  
22 the recommendation is for approval, the council must also forward a  
23 copy of a draft site certification agreement to the governor.

24 **Sec. 2.** RCW 80.50.090 and 2006 c 205 s 3 and 2006 c 196 s 6 are  
25 each reenacted and amended to read as follows:

26 (1) The council shall conduct an informational public hearing in  
27 the county of the proposed site as soon as practicable but not later  
28 than ~~((sixty))~~ thirty days after receipt of an application for site  
29 certification. However, the place of such public hearing shall be as  
30 close as practical to the proposed site.

31 ~~((Subsequent to the informational public hearing, the council~~  
32 ~~shall conduct a public hearing to determine whether or not the~~  
33 ~~proposed site is consistent and in compliance with city, county, or~~  
34 ~~regional land use plans or zoning ordinances. If it is determined~~  
35 ~~that the proposed site does conform with existing land use plans or~~  
36 ~~zoning ordinances in effect as of the date of the application, the~~  
37 ~~city, county, or regional planning authority shall not thereafter~~  
38 ~~change such land use plans or zoning ordinances so as to affect the~~  
39 ~~proposed site.~~

1       ~~(3))~~) Prior to the issuance of a council recommendation to the  
2 governor under RCW 80.50.100 a public hearing, conducted as an  
3 adjudicative proceeding under chapter 34.05 RCW, the administrative  
4 procedure act, shall be held. At such public hearing any person shall  
5 be entitled to be heard in support of or in opposition to the  
6 application for certification. The council and all parties to the  
7 adjudicative proceeding shall make every reasonable effort to ensure  
8 that the council issues its recommendation to the governor under RCW  
9 80.50.100 no later than six months after receipt of the application  
10 for site certification.

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

14       **Sec. 3.** RCW 80.50.100 and 2011 c 180 s 109 are each amended to  
15 read as follows:

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

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

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

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

3 (3)(a) Within (~~sixty~~) thirty days of receipt of the council's  
4 report the 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 and may not exceed  
15 thirty days. The council shall resubmit the draft certification to  
16 the governor incorporating any amendments deemed necessary upon  
17 reconsideration. Within (~~sixty~~) thirty days of receipt of such  
18 draft certification agreement, the governor shall either approve the  
19 application and execute the certification agreement or reject the  
20 application. The certification agreement shall be binding upon  
21 execution by the governor and the applicant.

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

26 **Sec. 4.** RCW 80.50.330 and 2007 c 325 s 3 are each amended to  
27 read as follows:

28 (1) For applications to site electrical transmission facilities,  
29 the council shall conduct a preapplication process pursuant to rules  
30 adopted by the council to govern such process, receive applications  
31 as prescribed in RCW 80.50.071, and conduct public meetings pursuant  
32 to RCW 80.50.090.

33 (2) The council shall consider and may recommend certification of  
34 electrical transmission facilities in corridors designated for this  
35 purpose by affected cities, towns, or counties:

36 (a) Where the jurisdictions have identified electrical  
37 transmission facility corridors as part of their land use plans and  
38 zoning maps based on policies adopted in their plans;

1 (b) Where the proposed electrical transmission facility is  
2 consistent with any adopted development regulations that govern the  
3 siting of electrical transmission facilities in such corridors; and

4 (c) Where contiguous jurisdictions and jurisdictions in which  
5 related regional electrical transmission facilities are located have  
6 either prior to or during the preapplication process undertaken good  
7 faith efforts to coordinate the locations of their corridors  
8 consistent with RCW 36.70A.100.

9 (3)(a) In the absence of a corridor designation in the manner  
10 prescribed in subsection (2) of this section, the council shall as  
11 part of the preapplication process require the preapplicant to  
12 negotiate, as provided by rule adopted by the council, for a  
13 reasonable time with affected cities, towns, and counties to attempt  
14 to reach agreement about a corridor plan. The application for  
15 certification shall identify only the corridor agreed to by the  
16 applicant and cities, towns, and counties within the proposed  
17 corridor pursuant to the preapplication process.

18 (b) If no corridor plan is agreed to by the applicant and cities,  
19 towns, and counties pursuant to (a) of this subsection, the applicant  
20 shall propose a recommended corridor and electrical transmission  
21 facilities to be included within the proposed corridor.

22 (c) The council shall consider the applicant's proposed corridor  
23 and electrical transmission facilities as provided in RCW 80.50.090  
24 (~~((2) and (4),)~~) and shall make a recommendation consistent with RCW  
25 80.50.090 and 80.50.100.

26 **Sec. 5.** RCW 80.50.340 and 2007 c 325 s 4 are each amended to  
27 read as follows:

28 (1) A preapplicant shall pay to the council a fee of ten thousand  
29 dollars to be applied to the cost of the preapplication process as a  
30 condition precedent to any action by the council, provided that costs  
31 in excess of this amount shall be paid only upon prior approval by  
32 the preapplicant, and provided further that any unexpended portions  
33 thereof shall be returned to the preapplicant.

34 (2) The council shall consult with the preapplicant and prepare a  
35 plan for the preapplication process which shall commence with an  
36 informational public hearing within (~~sixty~~) thirty days after the  
37 receipt of the preapplication fee as provided in RCW 80.50.090.

38 (3) The preapplication plan shall include but need not be limited  
39 to:

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

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

--- END ---