

CERTIFICATION OF ENROLLMENT

**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1812**

Chapter 183, Laws of 2022

(partial veto)

67th Legislature  
2022 Regular Session

ENERGY FACILITY SITE EVALUATION COUNCIL—MODIFICATION

EFFECTIVE DATE: June 30, 2022

Passed by the House March 7, 2022  
Yeas 92 Nays 6

LAURIE JINKINS

**Speaker of the House of  
Representatives**

Passed by the Senate March 3, 2022  
Yeas 29 Nays 20

DENNY HECK

**President of the Senate**

Approved March 25, 2022 4:35 PM with  
the exception of sections 19, 20, 21,  
and 22, which are vetoed.

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1812** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

March 28, 2022

**Secretary of State  
State of Washington**

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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1812

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AS AMENDED BY THE SENATE

Passed Legislature - 2022 Regular Session

State of Washington

67th Legislature

2022 Regular Session

By House Appropriations (originally sponsored by Representatives Fitzgibbon, Wylie, Berry, Valdez, Pollet, and Harris-Talley; by request of Office of the Governor)

READ FIRST TIME 02/07/22.

1 AN ACT Relating to modernizing the energy facility site  
2 evaluation council to meet the state's clean energy goals; amending  
3 RCW 80.50.010, 80.50.020, 80.50.040, 80.50.060, 80.50.071, 80.50.100,  
4 80.50.175, 80.50.340, 80.50.075, 44.39.010, and 44.39.012; reenacting  
5 and amending RCW 80.50.030, 80.50.090, and 43.79A.040; adding new  
6 sections to chapter 80.50 RCW; adding a new section to chapter 41.06  
7 RCW; creating new sections; repealing RCW 80.50.190 and 80.50.904;  
8 providing an effective date; and providing an expiration date.

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

10 **Sec. 1.** RCW 80.50.010 and 2001 c 214 s 1 are each amended to  
11 read as follows:

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

20 It is the policy of the state of Washington to reduce dependence  
21 on fossil fuels by recognizing the need for clean energy in order to

1 strengthen the state's economy, meet the state's greenhouse gas  
2 reduction obligations, and mitigate the significant near-term and  
3 long-term impacts from climate change while conducting a public  
4 process that is transparent and inclusive to all with particular  
5 attention to overburdened communities.

6 The legislature finds that the in-state manufacture of industrial  
7 products that enable a clean energy economy is critical to advancing  
8 the state's objectives in providing affordable electricity, promoting  
9 renewable energy, strengthening the state's economy, and reducing  
10 greenhouse gas emissions. Therefore, the legislature intends to  
11 provide the council with additional authority regarding the siting of  
12 clean energy product manufacturing facilities.

13 It is the policy of the state of Washington to recognize the  
14 pressing need for increased energy facilities, and to ensure through  
15 available and reasonable methods((~~r~~)) that the location and operation  
16 of ((~~such~~)) all energy facilities and certain clean energy product  
17 manufacturing facilities will produce minimal adverse effects on the  
18 environment, ecology of the land and its wildlife, and the ecology of  
19 state waters and their aquatic life.

20 It is the intent to seek courses of action that will balance the  
21 increasing demands for energy facility location and operation in  
22 conjunction with the broad interests of the public. In addition, it  
23 is the intent of the legislature to streamline application review for  
24 energy facilities to meet the state's energy goals and to authorize  
25 applications for review of certain clean energy product manufacturing  
26 facilities to be considered under the provisions of this chapter.

27 Such action will be based on these premises:

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

32 (2) To preserve and protect the quality of the environment; to  
33 enhance the public's opportunity to enjoy the esthetic and  
34 recreational benefits of the air, water and land resources; to  
35 promote air cleanliness; ((~~and~~)) to pursue beneficial changes in the  
36 environment; and to promote environmental justice for overburdened  
37 communities.

38 (3) To encourage the development and integration of clean energy  
39 sources.

40 (4) To provide abundant clean energy at reasonable cost.

1        ~~((4))~~ (5) To avoid costs of complete site restoration and  
2 demolition of improvements and infrastructure at unfinished nuclear  
3 energy sites, and to use unfinished nuclear energy facilities for  
4 public uses, including economic development, under the regulatory and  
5 management control of local governments and port districts.

6        ~~((5))~~ (6) To avoid costly duplication in the siting process and  
7 ensure that decisions are made timely and without unnecessary delay  
8 while also encouraging meaningful public comment and participation in  
9 energy facility decisions.

10        **Sec. 2.** RCW 80.50.020 and 2021 c 317 s 17 are each amended to  
11 read as follows:

12        The definitions in this section apply throughout this chapter  
13 unless the context clearly requires otherwise.

14        (1) "Alternative energy resource" includes energy facilities of  
15 the following types: (a) Wind; (b) solar energy; (c) geothermal  
16 energy; (d) ~~((landfill))~~ renewable natural gas; (e) wave or tidal  
17 action; ~~((e))~~ (f) biomass energy based on solid organic fuels from  
18 wood, forest, or field residues, or dedicated energy crops that do  
19 not include wood pieces that have been treated with chemical  
20 preservatives such as creosote, pentachlorophenol, or copper-chrome-  
21 arsenic; or (g) renewable or green electrolytic hydrogen.

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

24        (3) "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.

27        (4) "Associated facilities" means storage, transmission,  
28 handling, or other related and supporting facilities connecting an  
29 energy plant with the existing energy supply, processing, or  
30 distribution system, including, but not limited to, communications,  
31 controls, mobilizing or maintenance equipment, instrumentation, and  
32 other types of ancillary transmission equipment, off-line storage or  
33 venting required for efficient operation or safety of the  
34 transmission system and overhead, and surface or subsurface lines of  
35 physical access for the inspection, maintenance, and safe operations  
36 of the transmission facility and new transmission lines constructed  
37 to operate at nominal voltages of at least 115,000 volts to connect a  
38 thermal power plant or alternative energy facilities to the northwest

1 power grid. However, common carrier railroads or motor vehicles shall  
2 not be included.

3 (5) "Biofuel" means a liquid or gaseous fuel derived from organic  
4 matter (~~(intended for use as a transportation fuel)~~) including, but  
5 not limited to, biodiesel, renewable diesel, ethanol, renewable  
6 natural gas, and renewable propane.

7 (6) "Certification" means a binding agreement between an  
8 applicant and the state which shall embody compliance to the siting  
9 guidelines, in effect as of the date of certification, which have  
10 been adopted pursuant to RCW 80.50.040 as now or hereafter amended as  
11 conditions to be met prior to or concurrent with the construction or  
12 operation of any energy facility.

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

16 (8) "Council" means the energy facility site evaluation council  
17 created by RCW 80.50.030.

18 (9) "Counsel for the environment" means an assistant attorney  
19 general or a special assistant attorney general who shall represent  
20 the public in accordance with RCW 80.50.080.

21 (10) "Electrical transmission facilities" means electrical power  
22 lines and related equipment.

23 (11) "Energy facility" means an energy plant or transmission  
24 facilities: PROVIDED, That the following are excluded from the  
25 provisions of this chapter:

26 (a) Facilities for the extraction, conversion, transmission or  
27 storage of water, other than water specifically consumed or  
28 discharged by energy production or conversion for energy purposes;  
29 and

30 (b) Facilities operated by and for the armed services for  
31 military purposes or by other federal authority for the national  
32 defense.

33 (12) "Energy plant" means the following facilities together with  
34 their associated facilities:

35 (a) Any nuclear power facility where the primary purpose is to  
36 produce and sell electricity;

37 (b) Any nonnuclear stationary thermal power plant with generating  
38 capacity of three hundred fifty thousand kilowatts or more, measured  
39 using maximum continuous electric generating capacity, less minimum  
40 auxiliary load, at average ambient temperature and pressure, and

1 floating thermal power plants of one hundred thousand kilowatts or  
2 more suspended on the surface of water by means of a barge, vessel,  
3 or other floating platform;

4 (c) Facilities which will have the capacity to receive liquefied  
5 natural gas in the equivalent of more than one hundred million  
6 standard cubic feet of natural gas per day, which has been  
7 transported over marine waters;

8 (d) Facilities which will have the capacity to receive more than  
9 an average of fifty thousand barrels per day of crude or refined  
10 petroleum or liquefied petroleum gas which has been or will be  
11 transported over marine waters, except that the provisions of this  
12 chapter shall not apply to storage facilities unless occasioned by  
13 such new facility construction;

14 (e) Any underground reservoir for receipt and storage of natural  
15 gas as defined in RCW 80.40.010 capable of delivering an average of  
16 more than one hundred million standard cubic feet of natural gas per  
17 day; and

18 (f) Facilities capable of processing more than twenty-five  
19 thousand barrels per day of petroleum or biofuel into refined  
20 products except where such biofuel production is undertaken at  
21 existing industrial facilities(~~(; and~~

22 ~~(g) Facilities capable of producing more than one thousand five~~  
23 ~~hundred barrels per day of refined biofuel but less than twenty-five~~  
24 ~~thousand barrels of refined biofuel)).~~

25 (13) "Independent consultants" means those persons who have no  
26 financial interest in the applicant's proposals and who are retained  
27 by the council to evaluate the applicant's proposals, supporting  
28 studies, or to conduct additional studies.

29 (14) "Land use plan" means a comprehensive plan or land use  
30 element thereof adopted by a unit of local government pursuant to  
31 chapter 35.63, 35A.63, 36.70, or 36.70A RCW, or as otherwise  
32 designated by chapter 325, Laws of 2007.

33 (15) "Person" means an individual, partnership, joint venture,  
34 private or public corporation, association, firm, public service  
35 company, political subdivision, municipal corporation, government  
36 agency, public utility district, or any other entity, public or  
37 private, however organized.

38 (16) "Preapplicant" means a person considering applying for a  
39 site certificate agreement for any (~~(transmission)~~) facility.

1 (17) "Preapplication process" means the process which is  
2 initiated by written correspondence from the preapplicant to the  
3 council, and includes the process adopted by the council for  
4 consulting with the preapplicant and with federally recognized  
5 tribes, cities, towns, and counties prior to accepting applications  
6 for (~~(all transmission facilities)~~) any facility.

7 (18) "Secretary" means the secretary of the United States  
8 department of energy.

9 (19) "Site" means any proposed or approved location of an energy  
10 facility, alternative energy resource, clean energy product  
11 manufacturing facility, or electrical transmission facility.

12 (20) "Thermal power plant" means, for the purpose of  
13 certification, any electrical generating facility using any fuel for  
14 distribution of electricity by electric utilities.

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

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

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

29 (22) "Zoning ordinance" means an ordinance of a unit of local  
30 government regulating the use of land and adopted pursuant to chapter  
31 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state  
32 Constitution, or as otherwise designated by chapter 325, Laws of  
33 2007.

34 (23) "Clean energy product manufacturing facility" means a  
35 facility that exclusively or primarily manufactures the following  
36 products or components primarily used by such products:

37 (a) Vehicles, vessels, and other modes of transportation that  
38 emit no exhaust gas from the onboard source of power, other than  
39 water vapor;

1 (b) Charging and fueling infrastructure for electric, hydrogen,  
2 or other types of vehicles that emit no exhaust gas from the onboard  
3 source of power, other than water vapor;

4 (c) Renewable or green electrolytic hydrogen, including preparing  
5 renewable or green electrolytic hydrogen for distribution as an  
6 energy carrier or manufacturing feedstock, or converting it to a  
7 green hydrogen carrier;

8 (d) Equipment and products used to produce energy from  
9 alternative energy resources; and

10 (e) Equipment and products used at storage facilities.

11 (24) "Director" means the director of the energy facility site  
12 evaluation council appointed by the chair of the council in  
13 accordance with section 4 of this act.

14 (25)(a) "Green electrolytic hydrogen" means hydrogen produced  
15 through electrolysis.

16 (b) "Green electrolytic hydrogen" does not include hydrogen  
17 manufactured using steam reforming or any other conversion technology  
18 that produces hydrogen from a fossil fuel feedstock.

19 (26) "Green hydrogen carrier" means a chemical compound, created  
20 using electricity or renewable resources as energy input and without  
21 use of fossil fuel as a feedstock, from renewable hydrogen or green  
22 electrolytic hydrogen for the purposes of transportation, storage,  
23 and dispensing of hydrogen.

24 (27) "Renewable hydrogen" means hydrogen produced using renewable  
25 resources both as the source for the hydrogen and the source for the  
26 energy input into the production process.

27 (28) "Renewable natural gas" means a gas consisting largely of  
28 methane and other hydrocarbons derived from the decomposition of  
29 organic material in landfills, wastewater treatment facilities, and  
30 anaerobic digesters.

31 (29) "Renewable resource" means: (a) Water; (b) wind; (c) solar  
32 energy; (d) geothermal energy; (e) renewable natural gas; (f)  
33 renewable hydrogen; (g) wave, ocean, or tidal power; (h) biodiesel  
34 fuel that is not derived from crops raised on land cleared from old  
35 growth or first growth forests; or (i) biomass energy.

36 (30) "Storage facility" means a plant that: (a) Accepts  
37 electricity as an energy source and uses a chemical, thermal,  
38 mechanical, or other process to store energy for subsequent delivery  
39 or consumption in the form of electricity; or (b) stores renewable



1 hydrogen, green electrolytic hydrogen, or a green hydrogen carrier  
2 for subsequent delivery or consumption.

3 **Sec. 3.** RCW 80.50.030 and 2010 c 271 s 601 and 2010 c 152 s 2  
4 are each reenacted and amended to read as follows:

5 (1) (~~There is created and established the~~) The energy facility  
6 site evaluation council is created and established.

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

18 (~~(b) The chair or a designee shall execute all official~~  
19 ~~documents, contracts, and other materials on behalf of the council.~~  
20 ~~The Washington utilities and transportation commission shall provide~~  
21 ~~all administrative and staff support for the council. The commission~~  
22 ~~has supervisory authority over the staff of the council and shall~~  
23 ~~employ such personnel as are necessary to implement this chapter. Not~~  
24 ~~more than three such employees may be exempt from chapter 41.06 RCW.~~  
25 ~~The council shall otherwise retain its independence in exercising its~~  
26 ~~powers, functions, and duties and its supervisory control over~~  
27 ~~nonadministrative staff support. Membership, powers, functions, and~~  
28 ~~duties of the Washington state utilities and transportation~~  
29 ~~commission and the council shall otherwise remain as provided by~~  
30 ~~law.))~~

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

34 ~~(i) Department of ecology;~~

35 ~~(ii) Department of fish and wildlife;~~

36 ~~(iii) Department of commerce;~~

37 ~~(iv) Utilities and transportation commission; and~~

38 ~~(v) Department of natural resources))~~ chair of the council and:

1 (i) The director of the department of ecology or the director's  
2 designee;

3 (ii) The director of the department of fish and wildlife or the  
4 director's designee;

5 (iii) The director of the department of commerce or the  
6 director's designee;

7 (iv) The chair of the utilities and transportation commission or  
8 the chair's designee; and

9 (v) The commissioner of public lands or the commissioner's  
10 designee.

11 (b) The directors, administrators, or their designees, of the  
12 following departments, agencies, and commissions, or their statutory  
13 successors, may participate as councilmembers at their own discretion  
14 provided they elect to participate no later than sixty days after an  
15 application is filed:

16 (i) Department of agriculture;

17 (ii) Department of health;

18 (iii) Military department; and

19 (iv) Department of transportation.

20 ~~((c) Council membership is discretionary for agencies that~~  
21 ~~choose to participate under (b) of this subsection only for~~  
22 ~~applications that are filed with the council on or after May 8, 2001.~~  
23 ~~For applications filed before May 8, 2001, council membership is~~  
24 ~~mandatory for those agencies listed in (b) of this subsection.))~~

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

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

1 (6) For any port district wherein an application for a proposed  
2 port facility is filed subject to this chapter, the port district  
3 shall appoint a member or designee as a nonvoting member to the  
4 council. The member or designee so appointed shall sit with the  
5 council only at such times as the council considers the proposed site  
6 for the port district which he or she represents, and such member or  
7 designee shall serve until there has been a final acceptance or  
8 rejection of the proposed site. The provisions of this subsection  
9 shall not apply if the port district is the applicant, either singly  
10 or in partnership or association with any other person.

11 (7) A quorum of the council consists of a majority of members  
12 appointed for business to be conducted.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 80.50  
14 RCW to read as follows:

15 (1) The chair of the council or the chair's designee shall  
16 execute all official documents, contracts, and other materials on  
17 behalf of the council.

18 (2) The chair of the council shall appoint a director to oversee  
19 the operations of the council and carry out the duties of this  
20 chapter as delegated by the chair. The chair of the council may  
21 delegate to the director its status as appointing authority for the  
22 council.

23 (3) The director shall employ such administrative and  
24 professional personnel as may be necessary to perform the  
25 administrative work of the council and implement this chapter. The  
26 director has supervisory authority over all staff of the council. Not  
27 more than four employees may be exempt from chapter 41.06 RCW.

28 **Sec. 5.** RCW 80.50.040 and 2001 c 214 s 6 are each amended to  
29 read as follows:

30 The council shall have the following powers:

31 (1) To adopt, promulgate, amend, or rescind suitable rules and  
32 regulations, pursuant to chapter 34.05 RCW, to carry out the  
33 provisions of this chapter, and the policies and practices of the  
34 council in connection therewith;

35 (2) To develop and apply environmental and ecological guidelines  
36 in relation to the type, design, location, construction, ~~((and))~~  
37 initial operational conditions of certification, and ongoing

1 regulatory oversight under the regulatory authority established in  
2 this chapter of energy facilities subject to this chapter;

3 (3) To establish rules of practice for the conduct of public  
4 hearings pursuant to the provisions of the Administrative Procedure  
5 Act, as found in chapter 34.05 RCW;

6 (4) To prescribe the form, content, and necessary supporting  
7 documentation for site certification;

8 (5) To receive applications for energy facility locations and to  
9 investigate the sufficiency thereof;

10 (6) To ~~((make and contract, when applicable, for independent~~  
11 ~~studies of sites proposed by the applicant))~~ enter into contracts to  
12 carry out the provisions of this chapter;

13 (7) To conduct hearings on the proposed location and operational  
14 conditions of the energy facilities under the regulatory authority  
15 established in this chapter;

16 (8) To prepare written reports to the governor which shall  
17 include: (a) A statement indicating whether the application is in  
18 compliance with the council's guidelines, (b) criteria specific to  
19 the site and transmission line routing, (c) a council recommendation  
20 as to the disposition of the application, and (d) a draft  
21 certification agreement when the council recommends approval of the  
22 application;

23 (9) To prescribe the means for monitoring of the effects arising  
24 from the construction and the operation of energy facilities to  
25 assure continued compliance with terms of certification and/or  
26 permits issued by the council pursuant to chapter 90.48 RCW or  
27 subsection (12) of this section: PROVIDED, That any on-site  
28 inspection required by the council shall be performed by other state  
29 agencies pursuant to interagency agreement: PROVIDED FURTHER, That  
30 the council may retain authority for determining compliance relative  
31 to monitoring;

32 (10) To integrate its site evaluation activity with activities of  
33 federal agencies having jurisdiction in such matters to avoid  
34 unnecessary duplication;

35 (11) To present state concerns and interests to other states,  
36 regional organizations, and the federal government on the location,  
37 construction, and operation of any energy facility which may affect  
38 the environment, health, or safety of the citizens of the state of  
39 Washington;

1 (12) To issue permits in compliance with applicable provisions of  
2 the federally approved state implementation plan adopted in  
3 accordance with the Federal Clean Air Act, as now existing or  
4 hereafter amended, for the new construction, reconstruction, or  
5 enlargement or operation of energy facilities: PROVIDED, That such  
6 permits shall become effective only if the governor approves an  
7 application for certification and executes a certification agreement  
8 pursuant to this chapter: AND PROVIDED FURTHER, That all such permits  
9 be conditioned upon compliance with all provisions of the federally  
10 approved state implementation plan which apply to energy facilities  
11 covered within the provisions of this chapter; and

12 (13) To serve as an interagency coordinating body for energy-  
13 related issues.

14 **Sec. 6.** RCW 80.50.060 and 2021 c 317 s 18 are each amended to  
15 read as follows:

16 (1) (~~(Except for biofuel refineries specified in RCW~~  
17 ~~80.50.020(12)(g), the~~) (a) The provisions of this chapter apply to  
18 the construction of energy facilities which includes the new  
19 construction of energy facilities and the reconstruction or  
20 enlargement of existing energy facilities where the net increase in  
21 physical capacity or dimensions resulting from such reconstruction or  
22 enlargement meets or exceeds those capacities or dimensions set forth  
23 in RCW 80.50.020 (12) and (21). No construction or reconstruction of  
24 such energy facilities may be undertaken, except as otherwise  
25 provided in this chapter, (~~after July 15, 1977,~~) without first  
26 obtaining certification in the manner provided in this chapter.

27 (~~(2) The provisions of this chapter apply to the construction,~~  
28 ~~reconstruction, or enlargement of a new or existing biofuel refinery~~  
29 ~~specified in RCW 80.50.020(12)(g) or a new or existing energy~~  
30 ~~facility that exclusively uses alternative energy resources and~~  
31 ~~chooses to receive certification under this chapter, regardless of~~  
32 ~~the generating capacity of the project.~~

33 ~~(3))~~ (b) If applicants proposing the following types of  
34 facilities choose to receive certification under this chapter, the  
35 provisions of this chapter apply to the construction, reconstruction,  
36 or enlargement of these new or existing facilities:

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

39 (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 the  
12 construction, reconstruction, or modification of electrical  
13 transmission facilities when((÷

14 ~~(i) The)) the facilities are located in a national interest~~  
15 ~~electric transmission corridor as specified in RCW 80.50.045((÷~~

16 ~~(ii) An applicant chooses to receive certification under this~~  
17 ~~chapter, and the facilities are: (A) Of a nominal voltage of at least~~  
18 ~~one hundred fifteen thousand volts and are located in a completely~~  
19 ~~new corridor, except for the terminus of the new facility or~~  
20 ~~interconnection of the new facility with the existing grid, and the~~  
21 ~~corridor is not otherwise used for electrical transmission~~  
22 ~~facilities; and (B) located in more than one jurisdiction that has~~  
23 ~~promulgated land use plans or zoning ordinances; or~~

24 ~~(iii) An applicant chooses to receive certification under this~~  
25 ~~chapter, and the facilities are: (A) Of a nominal voltage in excess~~  
26 ~~of one hundred fifteen thousand volts; and (B) located outside an~~  
27 ~~electrical transmission corridor identified in (a)(i) and (ii) of~~  
28 ~~this subsection (3)).~~

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

1       ~~((4))~~ (3) The provisions of this chapter shall not apply to  
2 normal maintenance and repairs which do not increase the capacity or  
3 dimensions beyond those set forth in RCW 80.50.020 (12) and (21).

4       ~~((5))~~ (4) Applications for certification of energy facilities  
5 made prior to July 15, 1977, shall continue to be governed by the  
6 applicable provisions of law in effect on the day immediately  
7 preceding July 15, 1977, with the exceptions of RCW ~~((80.50.190 and))~~  
8 80.50.071 which shall apply to such prior applications and to site  
9 certifications prospectively from July 15, 1977.

10       ~~((6))~~ (5) Applications for certification shall be upon forms  
11 prescribed by the council and shall be supported by such information  
12 and technical studies as the council may require.

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

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

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

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

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

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

26       (8) The council must consult with all federally recognized tribes  
27 that possess resources, rights, or interests reserved or protected by  
28 federal treaty, statute, or executive order in the area where an  
29 energy facility is proposed to be located to provide early and  
30 meaningful participation and input during siting review and  
31 compliance monitoring. The chair and designated staff must offer to  
32 conduct government-to-government consultation to address issues of  
33 concern raised by such a tribe. The goal of the consultation process  
34 is to identify tribal resources or rights potentially affected by the  
35 proposed energy facility and to seek ways to avoid, minimize, or  
36 mitigate any adverse effects on tribal resources or rights. The chair  
37 must provide regular updates on the consultation to the council  
38 throughout the application review process. The report from the  
39 council to the governor required in RCW 80.50.100 must include a  
40 summary of the government-to-government consultation process that

1 complies with RCW 42.56.300, including the issues and proposed  
2 resolutions.

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

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

9 (1) A person proposing to construct, reconstruct, or enlarge a  
10 clean energy product manufacturing facility may choose to receive  
11 certification under this chapter.

12 (2) All of the council's powers with regard to energy facilities  
13 apply to clean energy product manufacturing facilities, and such a  
14 facility is subject to all provisions of this chapter that apply to  
15 an energy facility.

16 **Sec. 8.** RCW 80.50.071 and 2016 sp.s. c 10 s 1 are each amended  
17 to read as follows:

18 (1) The council shall receive all applications for energy  
19 facility site certification. Each applicant shall pay actual costs  
20 incurred by the council (~~(and the utilities and transportation~~  
21 ~~commission))~~) in processing an application.

22 (a) Each applicant shall, at the time of application submission,  
23 (~~(deposit with the utilities and transportation commission))~~) pay to  
24 the council for deposit into the energy facility site evaluation  
25 council account created in section 15 of this act an amount up to  
26 fifty thousand dollars, or such greater amount as specified by the  
27 council after consultation with the applicant. The council (~~(and the~~  
28 ~~utilities and transportation commission))~~) shall charge costs against  
29 the deposit if the applicant withdraws its application and has not  
30 reimbursed (~~(the commission, on behalf of)~~) the council(~~(,)~~) for all  
31 actual expenditures incurred in considering the application.

32 (b) The council may commission its own independent consultant  
33 study to measure the consequences of the proposed energy facility on  
34 the environment or any matter that it deems essential to an adequate  
35 appraisal of the site. The council(~~(, after consultation with the~~  
36 ~~utilities and transportation commission,)~~) shall provide an estimate  
37 of the cost of the study to the applicant and consider applicant  
38 comments.



1 (c) In addition to the deposit required under (a) of this  
2 subsection, applicants must reimburse ~~((the utilities and  
3 transportation commission, on behalf of))~~ the council~~((,))~~ for actual  
4 expenditures that arise in considering the application, including the  
5 cost of any independent consultant study. The ~~((utilities and  
6 transportation commission, on behalf of the))~~ council~~((,))~~ shall  
7 submit to each applicant an invoice of actual expenditures made  
8 during the preceding calendar quarter in sufficient detail to explain  
9 the expenditures. The applicant shall pay the ~~((utilities and  
10 transportation commission))~~ council the amount of the invoice by the  
11 due date.

12 (2) Each certificate holder shall pay ~~((to the utilities and  
13 transportation commission))~~ the actual costs incurred by the council  
14 for inspection and determination of compliance by the certificate  
15 holder with the terms of the certification relative to monitoring the  
16 effects of construction, operation, and site restoration of the  
17 facility.

18 (a) Each certificate holder shall, within thirty days of  
19 execution of the site certification agreement, ~~((deposit with the  
20 utilities and transportation commission))~~ pay to the council for  
21 deposit into the energy facility site evaluation council account  
22 created in section 15 of this act an amount up to fifty thousand  
23 dollars, or such greater amount as specified by the council after  
24 consultation with the certificate holder. The council ~~((and the  
25 utilities and transportation commission))~~ shall charge costs against  
26 the deposit if the certificate holder ceases operations and has not  
27 reimbursed ~~((the commission, on behalf of))~~ the council~~((,))~~ for all  
28 actual expenditures incurred in conducting inspections and  
29 determining compliance with the terms of the certification.

30 (b) In addition to the deposit required under (a) of this  
31 subsection, certificate holders must reimburse ~~((the utilities and  
32 transportation commission, on behalf of))~~ the council~~((,))~~ for actual  
33 expenditures that arise in administering this chapter and determining  
34 compliance. The council~~((, after consultation with the utilities and  
35 transportation commission,))~~ shall submit to each certificate holder  
36 an invoice of the expenditures actually made during the preceding  
37 calendar quarter in sufficient detail to explain the expenditures.  
38 The certificate holder shall pay ~~((the utilities and transportation  
39 commission))~~ the amount of the invoice by the due date.

1 (3) If an applicant or certificate holder fails to provide the  
2 initial deposit, or if subsequently required payments are not  
3 received within thirty days following receipt of the invoice from the  
4 council, the council may (a) in the case of the applicant, suspend  
5 processing of the application until payment is received; or (b) in  
6 the case of a certificate holder, suspend the certification.

7 (4) All payments required of the applicant or certificate holder  
8 under this section are to be made to the (~~utilities and~~  
9 ~~transportation commission who shall make payments as instructed by~~  
10 ~~the council from the funds submitted~~) council for deposit into the  
11 energy facility site evaluation council account created in section 15  
12 of this act. All such funds shall be subject to state auditing  
13 procedures. Any unexpended portions of the deposit shall be returned  
14 to the applicant within sixty days following the conclusion of the  
15 application process or to the certificate holder within sixty days  
16 after a determination by the council that the certificate is no  
17 longer required and there is no continuing need for compliance with  
18 its terms. For purposes of this section, "conclusion of the  
19 application process" means after the governor's decision granting or  
20 denying a certificate and the expiration of any opportunities for  
21 judicial review.

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

29 (i) A description of the proposed energy plant or alternative  
30 energy resource;

31 (ii) The location of the site;

32 (iii) The placement of the energy plant or alternative energy  
33 resource on the site;

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

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

37 (b) The purpose of the written notification is to provide an  
38 opportunity for the United States department of defense to comment  
39 upon the application, and to identify potential issues relating to  
40 the placement and operations of the energy plant or alternative

1 energy resource, before a site certification application is approved.  
2 The time period set forth by the council for receipt of such comments  
3 shall not extend the time period for the council's processing of the  
4 application.

5 (c) In order to assist local governments required to notify the  
6 United States department of defense under RCW 35.63.270, 35A.63.290,  
7 and 36.01.320, the council shall post on its website the appropriate  
8 information for contacting the United States department of defense.

9 **Sec. 9.** RCW 80.50.090 and 2006 c 205 s 3 and 2006 c 196 s 6 are  
10 each reenacted and amended to read as follows:

11 (1) The council shall conduct an informational public hearing in  
12 the county of the proposed site as soon as practicable but not later  
13 than sixty days after receipt of an application for site  
14 certification. However, the place of such public hearing shall be as  
15 close as practical to the proposed site.

16 (2) Subsequent to the informational public hearing, the council  
17 shall conduct a public hearing to determine whether or not the  
18 proposed site is consistent and in compliance with city, county, or  
19 regional land use plans or zoning ordinances (~~(. If it is determined  
20 that the proposed site does conform with existing land use plans or  
21 zoning ordinances in effect as of the date of the application, the  
22 city, county, or regional planning authority shall not thereafter  
23 change such land use plans or zoning ordinances so as to affect the  
24 proposed site)) on the date of the application.~~

25 (3) (a) After the submission of an environmental checklist and  
26 prior to issuing a threshold determination that a facility is likely  
27 to cause a significant adverse environmental impact under chapter  
28 43.21C RCW, the director must notify the project applicant and  
29 explain in writing the basis for its anticipated determination of  
30 significance. Prior to issuing the threshold determination of  
31 significance, the director must give the project applicant the option  
32 of withdrawing and revising its application and the associated  
33 environmental checklist to clarify or make changes to features of the  
34 proposal that are designed to mitigate the impacts that were the  
35 basis of the director's anticipated determination of significance.  
36 The director shall make the threshold determination based upon the  
37 changed or clarified proposal following the applicant's submittal.  
38 The director must provide an opportunity for public comment on a  
39 project for which a project applicant has withdrawn and revised the

1 application and environmental checklist and subsequently received a  
2 threshold determination of nonsignificance or mitigated determination  
3 of nonsignificance.

4 (b) The notification required under (a) of this subsection is not  
5 an official determination by the director and is not subject to  
6 appeal under chapter 43.21C RCW.

7 ~~((3))~~ (4) Prior to the issuance of a council recommendation to  
8 the governor under RCW 80.50.100 a public hearing, conducted as an  
9 adjudicative proceeding under chapter 34.05 RCW, the administrative  
10 procedure act, shall be held.

11 (a) At such public hearing any person shall be entitled to be  
12 heard in support of or in opposition to the application for  
13 certification by raising one or more specific issues, provided that  
14 the person has raised the issue or issues in writing with specificity  
15 during the application review process or during the public comment  
16 period that will be held prior to the start of the adjudicative  
17 hearing.

18 (b) If the environmental impact of the proposed facility in an  
19 application for certification is not significant or will be mitigated  
20 to a nonsignificant level under RCW 43.21C.031, the council may limit  
21 the topic of the public hearing conducted as an adjudicative  
22 proceeding under this section to whether any land use plans or zoning  
23 ordinances with which the proposed site is determined to be  
24 inconsistent under subsection (2) of this section should be  
25 preempted.

26 (5) After expedited processing is granted under RCW 80.50.075,  
27 the council must hold a public meeting to take comments on the  
28 proposed application prior to issuing a council recommendation to the  
29 governor.

30 ~~((4))~~ (6) Additional public hearings shall be held as deemed  
31 appropriate by the council in the exercise of its functions under  
32 this chapter.

33 **Sec. 10.** RCW 80.50.100 and 2011 c 180 s 109 are each amended to  
34 read as follows:

35 (1) (a) The council shall report to the governor its  
36 recommendations as to the approval or rejection of an application for  
37 certification within twelve months of receipt by the council of  
38 ~~((such))~~ an application deemed complete by the director, or such  
39 later time as is mutually agreed by the council and the applicant.

1 (b) The council shall review and consider comments received  
2 during the application process in making its recommendation.

3 (c) In the case of an application filed prior to December 31,  
4 2025, for certification of an energy facility proposed for  
5 construction, modification, or expansion for the purpose of providing  
6 generating facilities that meet the requirements of RCW 80.80.040 and  
7 are located in a county with a coal-fired electric (~~generating~~  
8 ~~[generation]~~) generation facility subject to RCW 80.80.040(3)(c),  
9 the council shall expedite the processing of the application pursuant  
10 to RCW 80.50.075 and shall report its recommendations to the governor  
11 within one hundred eighty days of receipt by the council of such an  
12 application, or a later time as is mutually agreed by the council and  
13 the applicant.

14 (2) If the council recommends approval of an application for  
15 certification, it shall also submit a draft certification agreement  
16 with the report. The council shall include conditions in the draft  
17 certification agreement to implement the provisions of this  
18 chapter(~~(7)~~) including, but not limited to, conditions to protect  
19 state (~~(e)~~), local governmental, or community interests, or  
20 overburdened communities as defined in RCW 70A.02.010 affected by the  
21 construction or operation of the (~~energy~~) facility, and conditions  
22 designed to recognize the purpose of laws or ordinances, or rules or  
23 regulations promulgated thereunder, that are preempted or superseded  
24 pursuant to RCW 80.50.110 as now or hereafter amended.

25 (3)(a) Within (~~sixty~~) 60 days of receipt of the council's  
26 report the governor shall take one of the following actions:

27 (i) Approve the application and execute the draft certification  
28 agreement; or

29 (ii) Reject the application; or

30 (iii) Direct the council to reconsider certain aspects of the  
31 draft certification agreement.

32 (b) The council shall reconsider such aspects of the draft  
33 certification agreement by reviewing the existing record of the  
34 application or, as necessary, by reopening the adjudicative  
35 proceeding for the purposes of receiving additional evidence. Such  
36 reconsideration shall be conducted expeditiously. The council shall  
37 resubmit the draft certification to the governor incorporating any  
38 amendments deemed necessary upon reconsideration. Within (~~sixty~~) 60  
39 days of receipt of such draft certification agreement, the governor  
40 shall either approve the application and execute the certification

1 agreement or reject the application. The certification agreement  
2 shall be binding upon execution by the governor and the applicant.

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

7 **Sec. 11.** RCW 80.50.175 and 1983 c 3 s 205 are each amended to  
8 read as follows:

9 (1) In addition to all other powers conferred on the council  
10 under this chapter, the council shall have the powers set forth in  
11 this section.

12 ~~(2) ((The council, upon request of any potential applicant, is~~  
13 ~~authorized, as provided in this section, to conduct a preliminary~~  
14 ~~study of any potential site prior to receipt of an application for~~  
15 ~~site certification. A fee of ten thousand dollars for each potential~~  
16 ~~site, to be applied toward the cost of any study agreed upon pursuant~~  
17 ~~to subsection (3) of this section, shall accompany the request and~~  
18 ~~shall be a condition precedent to any action on the request by the~~  
19 ~~council.~~

20 ~~(3) After receiving a request to study a potential site, the~~  
21 ~~council shall commission its own independent consultant to study~~  
22 ~~matters relative to the potential site. The study shall include, but~~  
23 ~~need not be limited to, the preparation and analysis of environmental~~  
24 ~~impact information for the proposed potential site and any other~~  
25 ~~matter the council and the potential applicant deem essential to an~~  
26 ~~adequate appraisal of the potential site. In conducting the study,~~  
27 ~~the council is authorized to cooperate and work jointly with the~~  
28 ~~county or counties in which the potential site is located, any~~  
29 ~~federal, state, or local governmental agency that might be requested~~  
30 ~~to comment upon the potential site, and any municipal or public~~  
31 ~~corporation having an interest in the matter. The full cost of the~~  
32 ~~study shall be paid by the potential applicant: PROVIDED, That such~~  
33 ~~costs exceeding a total of ten thousand dollars shall be payable~~  
34 ~~subject to the potential applicant giving prior approval to such~~  
35 ~~excess amount.~~

36 ~~(4) Any study prepared by the council pursuant to subsection (3)~~  
37 ~~of this section may be used in place of the "detailed statement"~~  
38 ~~required by RCW 43.21C.030(2)(c) by any branch of government except~~  
39 ~~the council created pursuant to chapter 80.50 RCW.~~

1 ~~(5) All payments required of the potential applicant under this~~  
2 ~~section are to be made to the state treasurer, who in turn shall pay~~  
3 ~~the consultant as instructed by the council. All such funds shall be~~  
4 ~~subject to state auditing procedures. Any unexpended portions thereof~~  
5 ~~shall be returned to the potential applicant.~~

6 ~~(6) Nothing in this section shall change the requirements for an~~  
7 ~~application for site certification or the requirement of payment of a~~  
8 ~~fee as provided in RCW 80.50.071, or change the time for disposition~~  
9 ~~of an application for certification as provided in RCW 80.50.100.~~

10 ~~(7) Nothing in this section shall be construed as preventing a~~  
11 ~~city or county from requiring any information it deems appropriate to~~  
12 ~~make a decision approving a particular location.)) (a) The council,~~  
13 ~~upon agreement with any potential applicant, is authorized as~~  
14 ~~provided in this section to conduct a preliminary study of any~~  
15 ~~potential project prior to receipt of an application for site~~  
16 ~~certification. This preliminary study must be completed before any~~  
17 ~~environmental review or process under RCW 43.21C.031 is initiated. A~~  
18 ~~fee of \$10,000 for each potential project, to be applied toward the~~  
19 ~~cost of any study agreed upon pursuant to (b) of this subsection,~~  
20 ~~must accompany the agreement and is a condition precedent to any~~  
21 ~~action on the agreement by the council.~~

22 ~~(b) Upon agreement with the potential applicant, the council may~~  
23 ~~commission its own independent consultant to study matters relative~~  
24 ~~to the potential project. In conducting the study, the council is~~  
25 ~~authorized to cooperate and work jointly with the county or counties~~  
26 ~~in which the potential project is located, any federal, state, local,~~  
27 ~~or tribal governmental agency that might be requested to comment on~~  
28 ~~the potential project, and any municipal or public corporation having~~  
29 ~~an interest in the matter. The full cost of the study must be paid by~~  
30 ~~the potential applicant. However, costs exceeding a total of \$10,000~~  
31 ~~are payable subject to the potential applicant giving prior approval~~  
32 ~~to such an excess amount.~~

33 ~~(3) All payments required of the potential applicant under this~~  
34 ~~section must be deposited into the energy facility site evaluation~~  
35 ~~council account created in section 15 of this act. All of these funds~~  
36 ~~are subject to state auditing procedures. Any unexpended portions of~~  
37 ~~the funds must be returned to the potential applicant.~~

38 ~~(4) If a potential applicant subsequently submits a formal~~  
39 ~~application for site certification to the council for a site where a~~  
40 ~~preliminary study was conducted, payments made under this section for~~

1 that study may be considered as payment towards the application fee  
2 provided in RCW 80.50.071.

3 NEW SECTION. **Sec. 12.** A new section is added to chapter 80.50  
4 RCW to read as follows:

5 (1) Except for the siting of electrical transmission facilities,  
6 any potential applicant may request a preapplication review of a  
7 proposed project. Council staff must review the preapplicant's draft  
8 application materials and provide comments on either additional  
9 studies or stakeholder and tribal input, or both, that should be  
10 included in the formal application for site certification. Council  
11 staff must inform affected federally recognized tribes under RCW  
12 80.50.060 of the preapplication review. The department of archaeology  
13 and historic preservation shall coordinate with the affected  
14 federally recognized tribes and the applicant in order to assess  
15 potential effects to tribal cultural resources, archaeological sites,  
16 and sacred sites.

17 (2) After initial review, the director and the applicant may  
18 agree on fees to be paid by the applicant so that council staff may  
19 conduct further review and consultation, including contracting for  
20 review by other parties.

21 **Sec. 13.** RCW 80.50.340 and 2007 c 325 s 4 are each amended to  
22 read as follows:

23 (1) A preapplicant applying under RCW 80.50.330 shall pay to the  
24 council a fee of ten thousand dollars to be applied to the cost of  
25 the preapplication process as a condition precedent to any action by  
26 the council, provided that costs in excess of this amount shall be  
27 paid only upon prior approval by the preapplicant, and provided  
28 further that any unexpended portions thereof shall be returned to the  
29 preapplicant.

30 (2) The council shall consult with the preapplicant and prepare a  
31 plan for the preapplication process which shall commence with an  
32 informational public hearing within (~~sixty~~) 60 days after the  
33 receipt of the preapplication fee as provided in RCW 80.50.090.

34 (3) The preapplication plan shall include but need not be limited  
35 to:

36 (a) An initial consultation to explain the proposal and request  
37 input from council staff, federal and state agencies, cities, towns,



1 counties, port districts, tribal governments, property owners, and  
2 interested individuals;

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

6 (4) Fees paid under this section must be deposited in the energy  
7 facility site evaluation council account created in section 15 of  
8 this act.

9 NEW SECTION. **Sec. 14.** A new section is added to chapter 41.06  
10 RCW to read as follows:

11 In addition to the exemptions provided under RCW 41.06.070, the  
12 provisions of this chapter do not apply to the following positions at  
13 the energy facility site evaluation council: The director; the  
14 personal secretary to the director and the council chair; and up to  
15 two professional staff members.

16 NEW SECTION. **Sec. 15.** A new section is added to chapter 80.50  
17 RCW to read as follows:

18 The energy facility site evaluation council account is created in  
19 the custody of the state treasurer. All receipts from funds received  
20 by the council for all payments, including fees, deposits, and  
21 reimbursements received under this chapter must be deposited into the  
22 account. Expenditures from the account may be used for purposes set  
23 forth in this chapter. Only the chair of the council or the chair's  
24 designee may authorize expenditures from the account. The account is  
25 subject to allotment procedures under chapter 43.88 RCW, but an  
26 appropriation is not required for expenditures.

27 **Sec. 16.** RCW 43.79A.040 and 2021 c 175 s 10 and 2021 c 108 s 5  
28 are each reenacted and amended to read as follows:

29 (1) Money in the treasurer's trust fund may be deposited,  
30 invested, and reinvested by the state treasurer in accordance with  
31 RCW 43.84.080 in the same manner and to the same extent as if the  
32 money were in the state treasury, and may be commingled with moneys  
33 in the state treasury for cash management and cash balance purposes.

34 (2) All income received from investment of the treasurer's trust  
35 fund must be set aside in an account in the treasury trust fund to be  
36 known as the investment income account.

1 (3) The investment income account may be utilized for the payment  
2 of purchased banking services on behalf of treasurer's trust funds  
3 including, but not limited to, depository, safekeeping, and  
4 disbursement functions for the state treasurer or affected state  
5 agencies. The investment income account is subject in all respects to  
6 chapter 43.88 RCW, but no appropriation is required for payments to  
7 financial institutions. Payments must occur prior to distribution of  
8 earnings set forth in subsection (4) of this section.

9 (4)(a) Monthly, the state treasurer must distribute the earnings  
10 credited to the investment income account to the state general fund  
11 except under (b), (c), and (d) of this subsection.

12 (b) The following accounts and funds must receive their  
13 proportionate share of earnings based upon each account's or fund's  
14 average daily balance for the period: The 24/7 sobriety account, the  
15 Washington promise scholarship account, the Gina Grant Bull memorial  
16 legislative page scholarship account, the Rosa Franklin legislative  
17 internship program scholarship (~~(account))~~ account, the Washington  
18 advanced college tuition payment program account, the Washington  
19 college savings program account, the accessible communities account,  
20 the Washington achieving a better life experience program account,  
21 the community and technical college innovation account, the  
22 agricultural local fund, the American Indian scholarship endowment  
23 fund, the foster care scholarship endowment fund, the foster care  
24 endowed scholarship trust fund, the contract harvesting revolving  
25 account, the Washington state combined fund drive account, the  
26 commemorative works account, the county enhanced 911 excise tax  
27 account, the county road administration board emergency loan account,  
28 the toll collection account, the developmental disabilities endowment  
29 trust fund, the energy account, the energy facility site evaluation  
30 council account, the fair fund, the family and medical leave  
31 insurance account, the fish and wildlife federal lands revolving  
32 account, the natural resources federal lands revolving account, the  
33 food animal veterinarian conditional scholarship account, the forest  
34 health revolving account, the fruit and vegetable inspection account,  
35 the educator conditional scholarship account, the game farm  
36 alternative account, the GET ready for math and science scholarship  
37 account, the Washington global health technologies and product  
38 development account, the grain inspection revolving fund, the  
39 Washington history day account, the industrial insurance rainy day  
40 fund, the juvenile accountability incentive account, the law

1 enforcement officers' and firefighters' plan 2 expense fund, the  
2 local tourism promotion account, the low-income home rehabilitation  
3 revolving loan program account, the multiagency permitting team  
4 account, the northeast Washington wolf-livestock management account,  
5 the produce railcar pool account, the public use general aviation  
6 airport loan revolving account, the regional transportation  
7 investment district account, the rural rehabilitation account, the  
8 Washington sexual assault kit account, the stadium and exhibition  
9 center account, the youth athletic facility account, the self-  
10 insurance revolving fund, the children's trust fund, the Washington  
11 horse racing commission Washington bred owners' bonus fund and  
12 breeder awards account, the Washington horse racing commission class  
13 C purse fund account, the individual development account program  
14 account, the Washington horse racing commission operating account,  
15 the life sciences discovery fund, the Washington state library-  
16 archives building account, the reduced cigarette ignition propensity  
17 account, the center for deaf and hard of hearing youth account, the  
18 school for the blind account, the Millersylvania park trust fund, the  
19 public employees' and retirees' insurance reserve fund, the school  
20 employees' benefits board insurance reserve fund, the public  
21 employees' and retirees' insurance account, the school employees'  
22 insurance account, the long-term services and supports trust account,  
23 the radiation perpetual maintenance fund, the Indian health  
24 improvement reinvestment account, the department of licensing tuition  
25 recovery trust fund, the student achievement council tuition recovery  
26 trust fund, the tuition recovery trust fund, the industrial insurance  
27 premium refund account, the mobile home park relocation fund, the  
28 natural resources deposit fund, the Washington state health insurance  
29 pool account, the federal forest revolving account, and the library  
30 operations account.

31 (c) The following accounts and funds must receive (~~eighty~~) 80  
32 percent of their proportionate share of earnings based upon each  
33 account's or fund's average daily balance for the period: The advance  
34 right-of-way revolving fund, the advanced environmental mitigation  
35 revolving account, the federal narcotics asset forfeitures account,  
36 the high occupancy vehicle account, the local rail service assistance  
37 account, and the miscellaneous transportation programs account.

38 (d) Any state agency that has independent authority over accounts  
39 or funds not statutorily required to be held in the custody of the  
40 state treasurer that deposits funds into a fund or account in the

1 custody of the state treasurer pursuant to an agreement with the  
2 office of the state treasurer shall receive its proportionate share  
3 of earnings based upon each account's or fund's average daily balance  
4 for the period.

5 (5) In conformance with Article II, section 37 of the state  
6 Constitution, no trust accounts or funds shall be allocated earnings  
7 without the specific affirmative directive of this section.

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

10 (1) Those administrative powers, duties, and functions of the  
11 utilities and transportation commission that were performed under the  
12 provisions of this chapter for the council prior to the effective  
13 date of this section are transferred to the council as set forth in  
14 this act.

15 (2)(a) All reports, documents, surveys, books, records, files,  
16 papers, or written material in the possession of the utilities and  
17 transportation commission pertaining to the powers, duties, and  
18 functions transferred must be delivered to the custody of the  
19 council. All cabinets, furniture, office equipment, motor vehicles,  
20 and other tangible property under the inventory of the utilities and  
21 transportation commission for the council must be transferred to the  
22 council. All funds, credits, or other assets held by the utilities  
23 and transportation commission for the benefit of the council, of  
24 which were paid to the utilities and transportation commission  
25 pursuant to this chapter must be assigned to the council and  
26 transferred to the energy facility site evaluation council account  
27 created in section 15 of this act.

28 (b) Any appropriations made to the utilities and transportation  
29 commission for the council to carrying out its powers, functions, and  
30 duties transferred must, on the effective date of this section, be  
31 transferred and credited to the council. Any funds received pursuant  
32 to payment made under this chapter must be credited to the council  
33 and deposited in the energy facility site evaluation council account  
34 created in section 15 of this act.

35 (c) If any question arises as to the transfer of any personnel,  
36 funds, books, documents, records, papers, files, equipment, or other  
37 tangible property used or held in the exercise of the powers and the  
38 performance of the duties and functions transferred, the director of

1 financial management shall decide as to the proper allocation and  
2 certify the same to the state agencies concerned.

3 (3) All pending business before the utilities and transportation  
4 commission pertaining to the powers, duties, and functions  
5 transferred must be continued and acted upon by the council. All  
6 existing contracts and obligations remain in full force and must be  
7 performed by the council.

8 (4) The transfer of the powers, duties, functions, and personnel  
9 of the utilities and transportation commission does not affect the  
10 validity of any act performed before the effective date of this  
11 section.

12 (5) If apportionments of budgeted or nonbudgeted funds are  
13 required because of the transfers directed by this section, the  
14 director of financial management shall certify the apportionments to  
15 the agencies affected, the state auditor, and the state treasurer.  
16 Each of these shall make the appropriate transfer and adjustments in  
17 funds and appropriation accounts and equipment records in accordance  
18 with the certification.

19 (6) All employees of the utilities and transportation commission  
20 that are engaged in performing the powers, functions, and duties of  
21 the council, are transferred to the council. All employees classified  
22 under chapter 41.06 RCW, the state civil service law, assigned to the  
23 council shall continue to perform their usual duties upon the same  
24 terms as formerly, without any loss of rights, subject to any action  
25 that may be appropriate thereafter in accordance with the laws and  
26 rules governing state civil service law.

27 **Sec. 18.** RCW 80.50.075 and 2006 c 205 s 2 are each amended to  
28 read as follows:

29 (1) Any person filing an application for certification of (~~an~~  
30 ~~energy facility or an alternative energy resource~~) any facility  
31 pursuant to this chapter may apply to the council for an expedited  
32 processing of such an application. The application for expedited  
33 processing shall be submitted to the council in such form and manner  
34 and accompanied by such information as may be prescribed by council  
35 rule. The council may grant an applicant expedited processing of an  
36 application for certification upon finding that the environmental  
37 impact of the proposed (~~energy~~) facility is not significant or will  
38 be mitigated to a nonsignificant level under RCW 43.21C.031 and the  
39 project is found under RCW 80.50.090(2) to be consistent and in

1 compliance with city, county, or regional land use plans or zoning  
2 ordinances.

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

5 (a) Commission an independent study to further measure the  
6 consequences of the proposed (~~energy facility or alternative energy~~  
7 ~~resource~~) facility on the environment, notwithstanding the other  
8 provisions of RCW 80.50.071; nor

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

11 (3) The council shall adopt rules governing the expedited  
12 processing of an application for certification pursuant to this  
13 section.

14 ***\*NEW SECTION. Sec. 19. (1)(a) The department must consult with***  
15 ***stakeholders from rural communities, agriculture, natural resource***  
16 ***management and conservation, and forestry to gain a better***  
17 ***understanding of the benefits and impacts of anticipated changes in***  
18 ***the state's energy system, including the siting of facilities under***  
19 ***the jurisdiction of the energy facility site evaluation council, and***  
20 ***to identify risks and opportunities for rural communities. This***  
21 ***consultation must be conducted in compliance with the community***  
22 ***engagement plan developed by the department under chapter 70A.02 RCW***  
23 ***and with input from the environmental justice council, using the best***  
24 ***recommended practices available at the time. The department must***  
25 ***collect the best available information and learn from the lived***  
26 ***experiences of people in rural communities, with the objective of***  
27 ***improving state implementation of clean energy policies, including***  
28 ***the siting of energy facilities under the jurisdiction of the energy***  
29 ***facility site evaluation council, in ways that protect and improve***  
30 ***life in rural Washington. The department must consult with an array***  
31 ***of rural community members, including: Low-income community and***  
32 ***vulnerable population members or representatives; legislators; local***  
33 ***elected officials and staff; those involved with agriculture,***  
34 ***forestry, and natural resource management and conservation; renewable***  
35 ***energy project property owners; utilities; large energy consumers;***  
36 ***and others.***

37 (b) ***The consultation must include stakeholder meetings with at***  
38 ***least one in eastern Washington and one in western Washington.***

1 (c) The department's consultation with stakeholders may include,  
2 but is not limited to, the following topics:

3 (i) Energy facility siting under the jurisdiction of the energy  
4 facility site evaluation council, including placement of new  
5 renewable energy resources, such as wind and solar generation, pumped  
6 storage, and batteries or new nonemitting electric generation  
7 resources, and their contribution to resource adequacy;

8 (ii) Production of hydrogen, biofuels, and feedstocks for clean  
9 fuels;

10 (iii) Programs to reduce energy cost burdens on rural families  
11 and farm operations;

12 (iv) Electric vehicles, farm and warehouse equipment, and  
13 charging infrastructure suitable for rural use;

14 (v) Efforts to capture carbon or produce energy on agricultural,  
15 forest, and other rural lands, including dual use solar projects that  
16 ensure ongoing agricultural operations;

17 (vi) The use of wood products and forest practices that provide  
18 low-carbon building materials and renewable fuel supplies; and

19 (vii) The development of clean manufacturing facilities, such as  
20 solar panels, vehicles, and carbon fiber.

21 (2) (a) The department must complete a report on rural clean  
22 energy and resilience that takes into consideration the consultation  
23 with rural stakeholders as described in subsection (1) of this  
24 section. The report must include recommendations for how policies,  
25 projects, and investment programs, including energy facility siting  
26 through the energy facility site evaluation council, can be developed  
27 or amended to more equitably distribute costs and benefits to rural  
28 communities. The report must include an assessment of how to improve  
29 the total benefits to rural areas overall, as well as the equitable  
30 distribution of benefits and costs within rural communities.

31 (b) The report must include a baseline understanding of rural  
32 energy production and consumption, and collect data on their economic  
33 impacts. Specifically, the report must examine:

34 (i) Direct, indirect, and induced jobs in construction and  
35 operations;

36 (ii) Financial returns to property owners;

37 (iii) Effects on local tax revenues and public services, which  
38 must include whether any school districts had a net loss of resources  
39 from diminished local effort assistance payments required under  
40 chapter 28A.500 RCW;

1 (iv) Effects on other rural land uses, such as agriculture,  
2 natural resource management and conservation, and tourism;

3 (v) Geographic distribution of large energy projects previously  
4 sited or forecast to be sited in Washington;

5 (vi) Potential forms of economic development assistance and  
6 impact mitigation payments; and

7 (vii) Relevant information from the least-conflict priority solar  
8 siting pilot project in the Columbia basin of eastern and central  
9 Washington required under section 607, chapter 334, Laws of 2021.

10 (c) The report must include a forecast of what Washington's clean  
11 energy transition will require for siting energy projects in rural  
12 Washington. The department must gather and analyze the best available  
13 information to produce forecast scenarios.

14 (d) By December 1, 2022, the department must submit an interim  
15 report on rural clean energy and resilience to the joint committee on  
16 energy supply, energy conservation, and energy resilience created in  
17 RCW 44.39.010, the energy facility site evaluation council, and the  
18 appropriate policy and fiscal committees of the legislature.

19 (e) By December 1, 2023, the department must submit a final  
20 report on rural clean energy and resilience to the joint committee on  
21 energy supply, energy conservation, and energy resilience created in  
22 RCW 44.39.010, the energy facility site evaluation council, and the  
23 appropriate policy and fiscal committees of the legislature.

24 (3) For the purposes of this section, "department" means the  
25 department of commerce.

\*Sec. 19 was vetoed. See message at end of chapter.

26 \*Sec. 20. RCW 44.39.010 and 2005 c 299 s 1 are each amended to  
27 read as follows:

28 There is hereby created the joint committee on energy supply  
29 ((and)), energy conservation, and energy resilience.

\*Sec. 20 was vetoed. See message at end of chapter.

30 \*Sec. 21. RCW 44.39.012 and 2005 c 299 s 4 are each amended to  
31 read as follows:

32 The definitions in this section apply throughout this chapter  
33 unless the context clearly requires otherwise.

34 (1) "Committee" means the joint committee on energy supply  
35 ((and)), energy conservation, and energy resilience.



1           (2) "Conservation" means reduced energy consumption or energy  
2 cost, or increased efficiency in the use of energy, and activities,  
3 measures, or equipment designed to achieve such results.

\*Sec. 21 was vetoed. See message at end of chapter.

4           \*NEW SECTION.   Sec. 22.   (1) (a) The committee shall review the  
5 following issues:

6           (i) Inequities in where large alternative energy projects,  
7 including projects under the jurisdiction of the energy facility site  
8 evaluation council, have been sited in Washington;

9           (ii) Inequities in where large alternative energy projects,  
10 including projects under the jurisdiction of the energy facility site  
11 evaluation council, are forecast to be sited in Washington; and

12           (iii) Forms of economic development assistance, mitigation  
13 payments, and viewshed impairment payments that counties not hosting  
14 their per capita share of alternative energy resources should provide  
15 to counties that host more than their per capita share.

16           (b) In support of its obligations under (a) of this subsection,  
17 the committee must review the report produced by the department of  
18 commerce under section 19 of this act.

19           (2) The committee must hold at least four meetings, at least two  
20 of which must be in eastern Washington. The first meeting of the  
21 committee must occur by September 30, 2022.

22           (3) Relevant state agencies, departments, and commissions,  
23 including the energy facility site evaluation council, shall  
24 cooperate with the committee and provide information as the chair  
25 reasonably requests.

26           (4) The committee shall report its findings and any  
27 recommendations to the energy facility site evaluation council and  
28 the committees of the legislature with jurisdiction over environment  
29 and energy laws by December 1, 2023. Recommendations of the committee  
30 may be made by a simple majority of committee members. In the event  
31 that the committee does not reach majority-supported recommendations,  
32 the committee may report minority findings supported by at least two  
33 members of the committee.

34           (5) The definitions in this subsection apply throughout this  
35 section unless the context clearly requires otherwise.

36           (a) "Alternative energy" means energy derived from an alternative  
37 energy resource specified in RCW 80.50.020(1).

1           **(b) "Committee" means the joint committee on energy supply,**  
2 **energy conservation, and energy resilience created in RCW 44.39.010.**

3           **(6) This section expires June 30, 2024.**

**\*Sec. 22 was vetoed. See message at end of chapter.**

4           NEW SECTION.   **Sec. 23.** If specific funding for the purposes of  
5 this act, referencing this act by bill or chapter number, is not  
6 provided by June 30, 2022, in the omnibus appropriations act, this  
7 act is null and void.

8           NEW SECTION.   **Sec. 24.** This act takes effect June 30, 2022.

9           NEW SECTION.   **Sec. 25.** The following acts or parts of acts are  
10 each repealed:

11           (1) RCW 80.50.190 (Disposition of receipts from applicants) and  
12 1977 ex.s. c 371 s 15; and

13           (2) RCW 80.50.904 (Effective date—1996 c 4) and 1996 c 4 s 6.

Passed by the House March 7, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 25, 2022, with the exception of  
certain items that were vetoed.

Filed in Office of Secretary of State March 28, 2022.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 19, 20,  
21, and 22, Engrossed Second Substitute House Bill No. 1812 entitled:

"AN ACT Relating to modernizing the energy facility site  
evaluation council to meet the state's clean energy goals."

Section 19 of Engrossed Second Substitute House Bill 1812 directs the  
Department of Commerce to conduct a study and stakeholder engagement  
around rural energy issues; however, the Legislature did not provide  
funding for this work. Fortunately, there is important study and  
stakeholder engagement work directed by the Legislature that is  
underway now, including a stakeholder process looking at how to  
effectively and responsibly site low-carbon energy. Recommendations  
from these efforts are due by the end of the year. In addition, the  
WSU Energy Program is launching a study and stakeholder process for  
how to site solar energy generation with the least conflicts.

There are significant economic development and job opportunities in  
clean energy in rural Washington and throughout the state. On our  
shared path to clean energy and a safe climate, I am committed to  
learning from and having dialogue with rural communities across the  
state about clean energy, including project siting, and about how we  
can support vibrant rural communities as we transition to a clean  
energy economy. Doing this well will require deep engagement with  
rural communities. Therefore, I am directing the Department of  
Commerce to bring forward a proposal for funding in the 2023-25

biennium to conduct a study and stakeholder engagement process for key issues around clean energy and rural communities.

In addition, Sections 20, 21, and 22 amend statutes of an existing joint legislative committee and give it a new charge related to examining energy facility siting. That new charge is intended to be informed by the results of the Department of Commerce study in Section 19. Because that study was not funded, the committee would lack a key information source for their work.

For these reasons I have vetoed Sections 19, 20, 21, and 22 of Engrossed Second Substitute House Bill No. 1812.

With the exception of Sections 19, 20, 21, and 22, Engrossed Second Substitute House Bill No. 1812 is approved."

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