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**SENATE BILL 5167**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Boehnke, Fortunato, Rolfes, Short, and Warnick

AN ACT Relating to eliminating expedited processing of alternative energy resource facilities fueled by solar or wind energy on certain designated lands before the energy facility site evaluation council; amending RCW 80.50.075; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that the energy facility site evaluation council's certification process undermines opportunities for local review of solar and wind facilities sited on agricultural lands that have long-term significance for the commercial production of food or other agricultural products. These energy facilities may occupy large amounts of land and affect agricultural production. The current process for siting these facilities creates an unfair advantage for the facilities, which have the special privilege of being able to opt out of the local review process if the local review process reveals local concerns. The legislature intends to create parity among different types of facilities by prohibiting solar and wind facilities sited on agricultural lands of long-term commercial significance from being eligible for expedited review before the energy facility site evaluation council. This will not prohibit new solar and wind facilities, but rather allow for a comprehensive review of local concerns if a solar or wind facility sited on agricultural lands of long-term commercial significance chooses to receive certification from the energy facility site evaluation council.

**Sec.**  RCW 80.50.075 and 2022 c 183 s 18 are each amended to read as follows:

(1) Any person filing an application for certification of any facility pursuant to this chapter may apply to the council for an expedited processing of such an application, except as provided in subsection (4) of this section. The application for expedited processing shall be submitted to the council in such form and manner and accompanied by such information as may be prescribed by council rule. The council may grant an applicant expedited processing of an application for certification upon finding that the environmental impact of the proposed facility is not significant or will be mitigated to a nonsignificant level under RCW 43.21C.031 and the project is found under RCW 80.50.090(2) to be consistent and in compliance with city, county, or regional land use plans or zoning ordinances.

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

(a) Commission an independent study to further measure the consequences of the proposed facility on the environment, notwithstanding the other provisions of RCW 80.50.071; nor

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

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

(4) An alternative energy resource facility that is fueled by solar or wind energy sited on agricultural lands that have long-term significance for the commercial production of food or other agricultural products and that chooses to receive certification pursuant to this chapter is not eligible for expedited processing under this section.

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