
SUBSTITUTE HOUSE BILL 2496

State of Washington

69th Legislature

2026 Regular Session

By House Environment & Energy (originally sponsored by Representatives Stearns, Ramel, Parshley, Simmons, Santos, Doglio, Ormsby, Hill, and Pollet)

READ FIRST TIME 02/04/26.

1 AN ACT Relating to tribal consultation conducted by the energy
2 facility site evaluation council; and amending RCW 80.50.060 and
3 42.30.140.

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

5 **Sec. 1.** RCW 80.50.060 and 2025 c 261 s 3 are each amended to
6 read as follows:

7 (1)(a) The provisions of this chapter apply to the construction
8 of energy facilities which includes the new construction of energy
9 facilities and the reconstruction or enlargement of existing energy
10 facilities where the net increase in physical capacity or dimensions
11 resulting from such reconstruction or enlargement meets or exceeds
12 those capacities or dimensions set forth in RCW 80.50.020 (14) and
13 (29). No construction or reconstruction of such energy facilities may
14 be undertaken, except as otherwise provided in this chapter, without
15 first obtaining certification in the manner provided in this chapter.

16 (b) If applicants proposing the following types of facilities
17 choose to receive certification under this chapter, the provisions of
18 this chapter apply to the construction, reconstruction, or
19 enlargement of these new or existing facilities:

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

1 (ii) Alternative energy resource facilities;

2 (iii) Electrical transmission facilities: (A) Of a nominal
3 voltage of at least 115,000 volts; and (B) located in more than one
4 jurisdiction that has promulgated land use plans or zoning
5 ordinances;

6 (iv) Clean energy product manufacturing facilities;

7 (v) Storage facilities; and

8 (vi) Fusion energy facilities. However, such a fusion energy
9 facility receiving site certification must also secure required
10 licenses and registrations, or equivalent authorizations, for
11 radiation control purposes from designated state or federal agencies.

12 (c) All of the council's powers with regard to energy facilities
13 apply to all of the facilities in (b) of this subsection and these
14 facilities are subject to all provisions of this chapter that apply
15 to an energy facility.

16 (2) (a) The provisions of this chapter must apply to:

17 (i) The construction, reconstruction, or enlargement of new or
18 existing electrical transmission facilities: (A) Of a nominal voltage
19 of at least 500,000 volts alternating current or at least 300,000
20 volts direct current; (B) located in more than one county; and (C)
21 located in the Washington service area of more than one retail
22 electric utility; and

23 (ii) The construction, reconstruction, or modification of
24 electrical transmission facilities when the facilities are located in
25 a national interest electric transmission corridor as specified in
26 RCW 80.50.045.

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

37 (3) The provisions of this chapter shall not apply to normal
38 maintenance and repairs which do not increase the capacity or
39 dimensions beyond those set forth in RCW 80.50.020 (14) and (29).

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

7 (5) Applications for certification shall be upon forms prescribed
8 by the council and shall be supported by such information and
9 technical studies as the council may require.

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

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

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

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

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

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

23 (8) The council must consult with all federally recognized tribes
24 that possess resources, rights, or interests reserved or protected by
25 federal treaty, statute, or executive order in the area where an
26 energy facility is proposed to be located to provide early and
27 meaningful participation and input during siting review and
28 compliance monitoring. ~~((The))~~ Upon the receipt of an application for
29 certification, the chair and designated staff must offer to conduct
30 government-to-government consultation to address issues of concern
31 raised by such a tribe. As part of the consultation process, and upon
32 request of the tribe to meet with the full council, consultation
33 shall include as many members of the council as can be arranged. The
34 goal is to coordinate the full council's attendance. Attendance by a
35 quorum of the council at the consultation does not constitute a
36 meeting under chapter 42.30 RCW, provided that there is no
37 deliberation between the members of the council and that no
38 assurances or commitments are made by members of the council. The
39 goal of the consultation process is ~~((to identify))~~ for the tribe to
40 provide information regarding tribal resources or rights potentially

1 affected by the proposed energy facility (~~and to seek~~), as well as
2 ways to avoid, minimize, or mitigate any adverse effects on tribal
3 resources or rights. (~~The chair must provide regular updates on the~~
4 ~~consultation to the council throughout the application review~~
5 ~~process.~~) The report from the council to the governor required in
6 RCW 80.50.100 must include a summary of the government-to-government
7 consultation process that complies with RCW 42.56.300, including the
8 issues and proposed resolutions. The council's summary shall be
9 provided to the tribe before it is submitted to the governor and the
10 tribe will have 30 days to request any corrections or additional
11 information be included in the summary, or to provide its own summary
12 to be included in the council's report to the governor required in
13 RCW 80.50.100.

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

18 **Sec. 2.** RCW 42.30.140 and 1990 c 98 s 1 are each amended to read
19 as follows:

20 If any provision of this chapter conflicts with the provisions of
21 any other statute, the provisions of this chapter shall control:
22 PROVIDED, That this chapter shall not apply to:

23 (1) The proceedings concerned with the formal issuance of an
24 order granting, suspending, revoking, or denying any license, permit,
25 or certificate to engage in any business, occupation, or profession
26 or to any disciplinary proceedings involving a member of such
27 business, occupation, or profession, or to receive a license for a
28 sports activity or to operate any mechanical device or motor vehicle
29 where a license or registration is necessary; or

30 (2) That portion of a meeting of a quasi-judicial body which
31 relates to a quasi-judicial matter between named parties as
32 distinguished from a matter having general effect on the public or on
33 a class or group; or

34 (3) Matters governed by chapter 34.05 RCW, the Administrative
35 Procedure Act; or

36 (4) (a) Collective bargaining sessions with employee
37 organizations, including contract negotiations, grievance meetings,
38 and discussions relating to the interpretation or application of a
39 labor agreement; or (b) that portion of a meeting during which the

1 governing body is planning or adopting the strategy or position to be
2 taken by the governing body during the course of any collective
3 bargaining, professional negotiations, or grievance or mediation
4 proceedings, or reviewing the proposals made in the negotiations or
5 proceedings while in progress; or
6 (5) Government-to-government consultation with a federally
7 recognized tribe under requirements provided in RCW 80.50.060.

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