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**SENATE BILL 5283**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senators Wagoner, J. Wilson, Dozier, Boehnke, Schoesler, Muzzall, Warnick, and Fortunato

Read first time 01/15/25. Referred to Committee on Environment, Energy & Technology.

1 AN ACT Relating to prohibiting the energy facility site  
2 evaluation council from preempting local laws that forbid the siting  
3 of certain storage facilities in critical areas; and amending RCW  
4 80.50.090 and 80.50.110.

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

6 **Sec. 1.** RCW 80.50.090 and 2022 c 183 s 9 are each amended to  
7 read as follows:

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

13 (2) Subsequent to the informational public hearing, the council  
14 shall conduct a public hearing to determine whether or not the  
15 proposed site is consistent and in compliance with city, county, or  
16 regional land use plans or zoning ordinances on the date of the  
17 application.

18 (3)(a) After the submission of an environmental checklist and  
19 prior to issuing a threshold determination that a facility is likely  
20 to cause a significant adverse environmental impact under chapter  
21 43.21C RCW, the director must notify the project applicant and

1 explain in writing the basis for its anticipated determination of  
2 significance. Prior to issuing the threshold determination of  
3 significance, the director must give the project applicant the option  
4 of withdrawing and revising its application and the associated  
5 environmental checklist to clarify or make changes to features of the  
6 proposal that are designed to mitigate the impacts that were the  
7 basis of the director's anticipated determination of significance.  
8 The director shall make the threshold determination based upon the  
9 changed or clarified proposal following the applicant's submittal.  
10 The director must provide an opportunity for public comment on a  
11 project for which a project applicant has withdrawn and revised the  
12 application and environmental checklist and subsequently received a  
13 threshold determination of nonsignificance or mitigated determination  
14 of nonsignificance.

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

18 (4) Prior to the issuance of a council recommendation to the  
19 governor under RCW 80.50.100 a public hearing, conducted as an  
20 adjudicative proceeding under chapter 34.05 RCW, the administrative  
21 procedure act, shall be held.

22 (a) At such public hearing any person shall be entitled to be  
23 heard in support of or in opposition to the application for  
24 certification by raising one or more specific issues, provided that  
25 the person has raised the issue or issues in writing with specificity  
26 during the application review process or during the public comment  
27 period that will be held prior to the start of the adjudicative  
28 hearing.

29 (b) If the environmental impact of the proposed facility in an  
30 application for certification is not significant or will be mitigated  
31 to a nonsignificant level under RCW 43.21C.031, the council may limit  
32 the topic of the public hearing conducted as an adjudicative  
33 proceeding under this section to whether any land use plans or zoning  
34 ordinances with which the proposed site is determined to be  
35 inconsistent under subsection (2) of this section should be  
36 preempted. Notwithstanding this subsection, a land use plan or zoning  
37 ordinance that forbids the siting of an electricity storage facility  
38 in a critical area, as defined in RCW 36.70A.030, may not be  
39 preempted.

1 (5) After expedited processing is granted under RCW 80.50.075,  
2 the council must hold a public meeting to take comments on the  
3 proposed application prior to issuing a council recommendation to the  
4 governor.

5 (6) Additional public hearings shall be held as deemed  
6 appropriate by the council in the exercise of its functions under  
7 this chapter.

8 **Sec. 2.** RCW 80.50.110 and 1975-'76 2nd ex.s. c 108 s 37 are each  
9 amended to read as follows:

10 (1) If any provision of this chapter is in conflict with any  
11 other provision, limitation, or restriction which is now in effect  
12 under any other law of this state, or any rule or regulation  
13 promulgated thereunder, this chapter shall govern and control and  
14 such other law or rule or regulation promulgated thereunder shall be  
15 deemed superseded for the purposes of this chapter.

16 (2) ((The)) Except as provided in RCW 80.50.090, the state hereby  
17 preempts the regulation and certification of the location,  
18 construction, and operational conditions of certification of the  
19 energy facilities included under RCW 80.50.060 as now or hereafter  
20 amended.

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