

Proposed Substitute House Bill 1812

By Representative Fitzgibbon

Original Bill: Modernizing the energy facility site evaluation council to meet the state’s clean energy goals.

Proposed Substitute (H-2462.1/22) compared to the House Bill 1812 (Z-0485.1):

- Adds reference to “overburdened communities” and to “encouraging meaningful public comment and participation” in the intent language;
- Requires a public comment period to be held prior to the adjudicative hearing and allows a person to raise one or more specific issues during this comment period in order for the issue or issues to be heard during the adjudicative hearing;
- Requires the Energy Facility Site Evaluation Council (EFSEC) to review and consider comments received during the application process in making its recommendation to the Governor;
- Reverts public “meetings” back to public “hearings”;
- Authorizes applicants to apply for expedited processing for any facility covered under the EFSEC’s site certification laws, not only energy facilities and alternative energy resource facilities;
- Replaces reference to federally recognized tribes with “ancestral lands” in a facility’s area with federally recognized tribes “that possess resources, rights or interests reserved or protected by federal treaty, statute, or executive order” in the area;
- Requires EFSEC staff to inform affected federally recognized tribes of a preapplication review for a proposed project;
- Amends requirements for engaging with federally recognized tribes, including by changing the government-to-government “meetings” to government-to-government “consultation”;
- Removes energy storage facilities from the definition of “alternative energy resource” and adds a separate definition for “storage facility”;
- Amends the definition of “clean energy product manufacturing facility,” including by broadening the types of transportation products or components that could be manufactured in such a facility;
- Adds a definition for “renewable resource”; and
- Includes clarifying language.

Committee: House Environment & Energy Committee
Staff: Megan McPhaden (786-7114), Office of Program Research
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BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-2462.1/22

ATTY/TYPIST: ML:lcl

BRIEF DESCRIPTION: Modernizing the energy facility site evaluation council to meet the state's clean energy goals.

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, and 80.50.075; reenacting and amending RCW
5 80.50.030, 80.50.090, and 43.79A.040; adding new sections to chapter
6 80.50 RCW; adding a new section to chapter 41.06 RCW; repealing RCW
7 80.50.190 and 80.50.904; and providing an effective date.

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

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

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

19 It is the policy of the state of Washington to reduce dependence
20 on fossil fuels by recognizing the need for clean energy in order to
21 strengthen the state's economy, meet the state's greenhouse gas

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

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

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

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

26 Such action will be based on these premises:

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

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

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

39 (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;

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;

7 (d) Clean fuel that is:

8 (i) Reasonably anticipated to be determined under chapter 70A.535
9 RCW to have life-cycle greenhouse gas emissions not exceeding 80
10 percent of the 2017 levels established under RCW 70A.535.020;

11 (ii) Used for purposes other than transportation purposes, but
12 which has greenhouse gas emissions that would be reasonably
13 anticipated not to exceed 80 percent of the carbon intensity of
14 fossil fuel types for which the fuel would typically be used as a
15 substitute;

16 (e) Equipment and products used to produce energy from
17 alternative energy resources; and

18 (f) Equipment and products used at storage facilities.

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

22 (25)(a) "Green electrolytic hydrogen" means hydrogen produced
23 through electrolysis.

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

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

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

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

39 (29) "Storage facility" means a plant that: (a) Accepts
40 electricity as an energy source and uses a chemical, thermal,

1 mechanical, or other process to store energy for subsequent delivery
2 or consumption in the form of electricity; or (b) stores renewable
3 hydrogen or green electrolytic hydrogen for subsequent delivery or
4 consumption.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (i) Department of agriculture;

18 (ii) Department of health;

19 (iii) Military department; and

20 (iv) Department of transportation.

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

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

33 (5) The city legislative authority of every city within whose
34 corporate limits an energy facility is proposed to be located shall
35 appoint a member or designee as a voting member to the council. The
36 member or designee so appointed shall sit with the council only at
37 such times as the council considers the proposed site for the city
38 which he or she represents, and such member or designee shall serve
39 until there has been a final acceptance or rejection of the proposed
40 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) The appropriate elected governing body or executive official
12 of up to two federally recognized tribes that possess resources,
13 rights, or interests reserved or protected by federal treaty,
14 statute, or executive order in the area where an energy facility is
15 proposed to be located may each appoint a member or designee as a
16 voting member of the council. The members or designees so appointed
17 may sit with the council only at such times as the council considers
18 the proposed site that prompted their appointment and the members or
19 designees serve until there has been a final acceptance or rejection
20 of the proposed site.

21 (8) A quorum of the council consists of a majority of members
22 appointed for business to be conducted.

23 NEW SECTION. Sec. 4. A new section is added to chapter 80.50
24 RCW to read as follows:

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

28 (2) The chair of the council shall appoint a director to oversee
29 the operations of the council and carry out the duties of this
30 chapter as delegated by the chair. The chair of the council may
31 delegate to the director its status as appointing authority for the
32 council.

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

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

3 The council shall have the following powers:

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

8 (2) To develop and apply environmental and ecological guidelines
9 in relation to the type, design, location, construction, ~~((and))~~
10 initial operational conditions of certification, and ongoing
11 regulatory oversight under the regulatory authority established in
12 this chapter of energy facilities subject to this chapter;

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

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

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

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

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

26 (8) To prepare written reports to the governor which shall
27 include: (a) A statement indicating whether the application is in
28 compliance with the council's guidelines, (b) criteria specific to
29 the site and transmission line routing, (c) a council recommendation
30 as to the disposition of the application, and (d) a draft
31 certification agreement when the council recommends approval of the
32 application;

33 (9) To prescribe the means for monitoring of the effects arising
34 from the construction and the operation of energy facilities to
35 assure continued compliance with terms of certification and/or
36 permits issued by the council pursuant to chapter 90.48 RCW or
37 subsection (12) of this section: PROVIDED, That any on-site
38 inspection required by the council shall be performed by other state
39 agencies pursuant to interagency agreement: PROVIDED FURTHER, That

1 the council may retain authority for determining compliance relative
2 to monitoring;

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

6 (11) To present state concerns and interests to other states,
7 regional organizations, and the federal government on the location,
8 construction, and operation of any energy facility which may affect
9 the environment, health, or safety of the citizens of the state of
10 Washington;

11 (12) To issue permits in compliance with applicable provisions of
12 the federally approved state implementation plan adopted in
13 accordance with the Federal Clean Air Act, as now existing or
14 hereafter amended, for the new construction, reconstruction, or
15 enlargement or operation of energy facilities: PROVIDED, That such
16 permits shall become effective only if the governor approves an
17 application for certification and executes a certification agreement
18 pursuant to this chapter: AND PROVIDED FURTHER, That all such permits
19 be conditioned upon compliance with all provisions of the federally
20 approved state implementation plan which apply to energy facilities
21 covered within the provisions of this chapter; and

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

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

26 (1) (~~Except for biofuel refineries specified in RCW~~
27 ~~80.50.020(12)(g), the~~) (a) The provisions of this chapter apply to
28 the construction of energy facilities which includes the new
29 construction of energy facilities and the reconstruction or
30 enlargement of existing energy facilities where the net increase in
31 physical capacity or dimensions resulting from such reconstruction or
32 enlargement meets or exceeds those capacities or dimensions set forth
33 in RCW 80.50.020 (12) and (21). No construction or reconstruction of
34 such energy facilities may be undertaken, except as otherwise
35 provided in this chapter, (~~after July 15, 1977,~~) without first
36 obtaining certification in the manner provided in this chapter.

37 (~~(2) The provisions of this chapter apply to the construction,~~
38 ~~reconstruction, or enlargement of a new or existing biofuel refinery~~
39 ~~specified in RCW 80.50.020(12)(g) or a new or existing energy~~

1 ~~facility that exclusively uses alternative energy resources and~~
2 ~~chooses to receive certification under this chapter, regardless of~~
3 ~~the generating capacity of the project.~~

4 ~~(3))~~ (b) If applicants proposing the following types of
5 facilities choose to receive certification under this chapter, the
6 provisions of this chapter apply to the construction, reconstruction,
7 or enlargement of these new or existing facilities:

8 (i) Biofuel refineries specified in RCW 80.50.020(12)(g);

9 (ii) Alternative energy resource facilities;

10 (iii) Electrical transmission facilities: (A) Of a nominal
11 voltage of at least 150,000 volts; and (B) located in more than one
12 jurisdiction that has promulgated land use plans or zoning
13 ordinances;

14 (iv) Clean energy product manufacturing facilities; and

15 (v) Storage facilities.

16 (2)(a) The provisions of this chapter must apply to the
17 construction, reconstruction, or modification of electrical
18 transmission facilities when (~~÷~~

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

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

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

34 (b) For the purposes of this subsection, (~~"modify"~~)
35 "modification" means a significant change to an electrical
36 transmission facility and does not include the following: (i) Minor
37 improvements such as the replacement of existing transmission line
38 facilities or supporting structures with equivalent facilities or
39 structures; (ii) the relocation of existing electrical transmission
40 line facilities; (iii) the conversion of existing overhead lines to

1 underground; or (iv) the placing of new or additional conductors,
2 supporting structures, insulators, or their accessories on or
3 replacement of supporting structures already built.

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

7 ~~((5))~~ (4) Applications for certification of energy facilities
8 made prior to July 15, 1977, shall continue to be governed by the
9 applicable provisions of law in effect on the day immediately
10 preceding July 15, 1977, with the exceptions of RCW ~~((80.50.190 and))~~
11 80.50.071 which shall apply to such prior applications and to site
12 certifications prospectively from July 15, 1977.

13 ~~((6))~~ (5) Applications for certification shall be upon forms
14 prescribed by the council and shall be supported by such information
15 and technical studies as the council may require.

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

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

20 (b) The appropriate city legislative authority or authorities
21 where the proposed facility is located; and

22 (c) The appropriate federally recognized tribal governments that
23 may be affected by the proposed facility.

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

28 (8) The council must consult with all federally recognized tribes
29 that possess resources, rights, or interests reserved or protected by
30 federal treaty, statute, or executive order in the area where an
31 energy facility is proposed to be located to provide for meaningful
32 participation and input during siting review and compliance
33 monitoring. Consistent with RCW 43.376.020, the chair and designated
34 staff must offer to conduct government-to-government consultation to
35 address issues of concern raised by such a tribe. The chair must
36 provide regular updates on the consultation to the council throughout
37 the application review process. The report required in RCW 80.50.100
38 must include a summary of the government-to-government consultation
39 process that complies with RCW 42.56.300, including the issues and
40 proposed resolutions.

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

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

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

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

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

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

26 (b) The council may commission its own independent consultant
27 study to measure the consequences of the proposed energy facility on
28 the environment or any matter that it deems essential to an adequate
29 appraisal of the site. The council(~~(after consultation with the~~
30 ~~utilities and transportation commission)~~) shall provide an estimate
31 of the cost of the study to the applicant and consider applicant
32 comments.

33 (c) In addition to the deposit required under (a) of this
34 subsection, applicants must reimburse (~~(the utilities and~~
35 ~~transportation commission, on behalf of)~~) the council(~~()~~) for actual
36 expenditures that arise in considering the application, including the
37 cost of any independent consultant study. The (~~(utilities and~~
38 ~~transportation commission, on behalf of the)~~) council(~~()~~) shall
39 submit to each applicant an invoice of actual expenditures made

1 during the preceding calendar quarter in sufficient detail to explain
2 the expenditures. The applicant shall pay the ~~((utilities and
3 transportation commission))~~ council the amount of the invoice by the
4 due date.

5 (2) Each certificate holder shall pay ~~((to the utilities and
6 transportation commission))~~ the actual costs incurred by the council
7 for inspection and determination of compliance by the certificate
8 holder with the terms of the certification relative to monitoring the
9 effects of construction, operation, and site restoration of the
10 facility.

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

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

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

39 (4) All payments required of the applicant or certificate holder
40 under this section are to be made to the ~~((utilities and~~

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

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

21 (i) A description of the proposed energy plant, clean energy
22 product manufacturing facility, or alternative energy resource;

23 (ii) The location of the site;

24 (iii) The placement of the energy plant or alternative energy
25 resource on the site;

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

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

29 (b) The purpose of the written notification is to provide an
30 opportunity for the United States department of defense to comment
31 upon the application, and to identify potential issues relating to
32 the placement and operations of the energy plant or alternative
33 energy resource, before a site certification application is approved.
34 The time period set forth by the council for receipt of such comments
35 shall not extend the time period for the council's processing of the
36 application.

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

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

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

8 (2) Subsequent to the informational public hearing, the council
9 shall conduct a public hearing to determine whether or not the
10 proposed site is consistent and in compliance with city, county, or
11 regional land use plans or zoning ordinances (~~(. If it is determined~~
12 ~~that the proposed site does conform with existing land use plans or~~
13 ~~zoning ordinances in effect as of the date of the application, the~~
14 ~~city, county, or regional planning authority shall not thereafter~~
15 ~~change such land use plans or zoning ordinances so as to affect the~~
16 ~~proposed site)) on the date of the application.~~

17 (3)(a) After the submission of an environmental checklist and
18 prior to issuing a threshold determination that a facility is likely
19 to cause a significant adverse environmental impact under chapter
20 43.21C RCW, the director must notify the project applicant and
21 explain in writing the basis for its anticipated determination of
22 significance. Prior to issuing the threshold determination of
23 significance, the director must give the project applicant the option
24 of withdrawing and revising its application and the associated
25 environmental checklist to clarify or make changes to features of the
26 proposal that are designed to mitigate the impacts that were the
27 basis of the director's anticipated determination of significance.
28 The director shall make the threshold determination based upon the
29 changed or clarified proposal following the applicant's submittal.

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

33 ~~((3))~~ (4) Prior to the issuance of a council recommendation to
34 the governor under RCW 80.50.100 a public hearing, conducted as an
35 adjudicative proceeding under chapter 34.05 RCW, the administrative
36 procedure act, shall be held.

37 (a) At such public hearing any person shall be entitled to be
38 heard in support of or in opposition to the application for
39 certification by raising one or more specific issues, provided that
40 the person has raised the issue or issues in writing with specificity

1 during the application review process or during the public comment
2 period that will be held prior to the start of the adjudicative
3 hearing.

4 (b) If the environmental impact of the proposed facility in an
5 application for certification is not significant or will be mitigated
6 to a nonsignificant level under RCW 43.21C.031, the council may limit
7 the topic of the public hearing conducted as an adjudicative
8 proceeding under this section to whether any land use plans or zoning
9 ordinances with which the proposed site is determined to be
10 inconsistent under subsection (2) of this section should be
11 preempted.

12 (5) After expedited processing is granted under RCW 80.50.075,
13 the council must hold a public meeting to take comments on the
14 proposed application prior to issuing a council recommendation to the
15 governor.

16 ~~((4))~~ (6) Additional public hearings shall be held as deemed
17 appropriate by the council in the exercise of its functions under
18 this chapter.

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

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

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

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

1 (2) If the council recommends approval of an application for
2 certification, it shall also submit a draft certification agreement
3 with the report. The council shall include conditions in the draft
4 certification agreement to implement the provisions of this
5 chapter(~~(7)~~) including, but not limited to, conditions to protect
6 state or local governmental or community interests affected by the
7 construction or operation of the (~~(energy)~~) facility, and conditions
8 designed to recognize the purpose of laws or ordinances, or rules or
9 regulations promulgated thereunder, that are preempted or superseded
10 pursuant to RCW 80.50.110 as now or hereafter amended.

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

13 (i) Approve the application and execute the draft certification
14 agreement; or

15 (ii) Reject the application; or

16 (iii) Direct the council to reconsider certain aspects of the
17 draft certification agreement.

18 (b) The council shall reconsider such aspects of the draft
19 certification agreement by reviewing the existing record of the
20 application or, as necessary, by reopening the adjudicative
21 proceeding for the purposes of receiving additional evidence. Such
22 reconsideration shall be conducted expeditiously. The council shall
23 resubmit the draft certification to the governor incorporating any
24 amendments deemed necessary upon reconsideration. Within (~~(sixty)~~) 60
25 days of receipt of such draft certification agreement, the governor
26 shall either approve the application and execute the certification
27 agreement or reject the application. The certification agreement
28 shall be binding upon execution by the governor and the applicant.

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

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

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

38 (~~(The council, upon request of any potential applicant, is~~
39 ~~authorized, as provided in this section, to conduct a preliminary~~

1 study of any potential site prior to receipt of an application for
2 site certification. A fee of ten thousand dollars for each potential
3 site, to be applied toward the cost of any study agreed upon pursuant
4 to subsection (3) of this section, shall accompany the request and
5 shall be a condition precedent to any action on the request by the
6 council.

7 (3) After receiving a request to study a potential site, the
8 council shall commission its own independent consultant to study
9 matters relative to the potential site. The study shall include, but
10 need not be limited to, the preparation and analysis of environmental
11 impact information for the proposed potential site and any other
12 matter the council and the potential applicant deem essential to an
13 adequate appraisal of the potential site. In conducting the study,
14 the council is authorized to cooperate and work jointly with the
15 county or counties in which the potential site is located, any
16 federal, state, or local governmental agency that might be requested
17 to comment upon the potential site, and any municipal or public
18 corporation having an interest in the matter. The full cost of the
19 study shall be paid by the potential applicant: PROVIDED, That such
20 costs exceeding a total of ten thousand dollars shall be payable
21 subject to the potential applicant giving prior approval to such
22 excess amount.

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

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

32 (6) Nothing in this section shall change the requirements for an
33 application for site certification or the requirement of payment of a
34 fee as provided in RCW 80.50.071, or change the time for disposition
35 of an application for certification as provided in RCW 80.50.100.

36 (7) Nothing in this section shall be construed as preventing a
37 city or county from requiring any information it deems appropriate to
38 make a decision approving a particular location.)) (a) The council,
39 upon agreement with any potential applicant, is authorized as
40 provided in this section to conduct a preliminary study of any

1 potential project prior to receipt of an application for site
2 certification. This preliminary study must be completed before any
3 environmental review or process under RCW 43.21C.031 is initiated. A
4 fee of \$10,000 for each potential project, to be applied toward the
5 cost of any study agreed upon pursuant to (b) of this subsection,
6 must accompany the agreement and is a condition precedent to any
7 action on the agreement by the council.

8 (b) Upon agreement with the potential applicant, the council may
9 commission its own independent consultant to study matters relative
10 to the potential project. In conducting the study, the council is
11 authorized to cooperate and work jointly with the county or counties
12 in which the potential project is located, any federal, state, local,
13 or tribal governmental agency that might be requested to comment on
14 the potential project, and any municipal or public corporation having
15 an interest in the matter. The full cost of the study must be paid by
16 the potential applicant. However, costs exceeding a total of \$10,000
17 are payable subject to the potential applicant giving prior approval
18 to such an excess amount.

19 (3) All payments required of the potential applicant under this
20 section must be deposited into the energy facility site evaluation
21 council account created in section 15 of this act. All of these funds
22 are subject to state auditing procedures. Any unexpended portions of
23 the funds must be returned to the potential applicant.

24 (4) If a potential applicant subsequently submits a formal
25 application for site certification to the council for a site where a
26 preliminary study was conducted, payments made under this section for
27 that study may be considered as payment towards the application fee
28 provided in RCW 80.50.071.

29 NEW SECTION. Sec. 12. A new section is added to chapter 80.50
30 RCW to read as follows:

31 (1) Except for the siting of electrical transmission facilities,
32 any potential applicant may request a preapplication review of a
33 proposed project. Council staff must review the preapplicant's draft
34 application materials and provide comments on either additional
35 studies or stakeholder and tribal input, or both, that should be
36 included in the formal application for site certification. Council
37 staff must inform affected federally recognized tribes under RCW
38 80.50.060 of the preapplication review.

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

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

7 (1) A preapplicant applying under RCW 80.50.330 shall pay to the
8 council a fee of ten thousand dollars to be applied to the cost of
9 the preapplication process as a condition precedent to any action by
10 the council, provided that costs in excess of this amount shall be
11 paid only upon prior approval by the preapplicant, and provided
12 further that any unexpended portions thereof shall be returned to the
13 preapplicant.

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

18 (3) The preapplication plan shall include but need not be limited
19 to:

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

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

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

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

32 In addition to the exemptions provided under RCW 41.06.070, the
33 provisions of this chapter do not apply to the following positions at
34 the energy facility site evaluation council: The director; the
35 personal secretary to the director and the council chair; and up to
36 two professional staff members.

1 NEW SECTION. **Sec. 15.** A new section is added to chapter 80.50

2 RCW to read as follows:

3 The energy facility site evaluation council account is created in
4 the custody of the state treasurer. All receipts from funds received
5 by the council for all payments, including fees, deposits, and
6 reimbursements received under this chapter must be deposited into the
7 account. Expenditures from the account may be used for purposes set
8 forth in this chapter. Only the chair of the council or the chair's
9 designee may authorize expenditures from the account. The account is
10 subject to allotment procedures under chapter 43.88 RCW, but an
11 appropriation is not required for expenditures.

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

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

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

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

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

33 (b) The following accounts and funds must receive their
34 proportionate share of earnings based upon each account's or fund's
35 average daily balance for the period: The 24/7 sobriety account, the
36 Washington promise scholarship account, the Gina Grant Bull memorial
37 legislative page scholarship account, the Rosa Franklin legislative
38 internship program scholarship (~~(account)~~) account, the Washington
39 advanced college tuition payment program account, the Washington

1 college savings program account, the accessible communities account,
2 the Washington achieving a better life experience program account,
3 the community and technical college innovation account, the
4 agricultural local fund, the American Indian scholarship endowment
5 fund, the foster care scholarship endowment fund, the foster care
6 endowed scholarship trust fund, the contract harvesting revolving
7 account, the Washington state combined fund drive account, the
8 commemorative works account, the county enhanced 911 excise tax
9 account, the county road administration board emergency loan account,
10 the toll collection account, the developmental disabilities endowment
11 trust fund, the energy account, the energy facility site evaluation
12 council account, the fair fund, the family and medical leave
13 insurance account, the fish and wildlife federal lands revolving
14 account, the natural resources federal lands revolving account, the
15 food animal veterinarian conditional scholarship account, the forest
16 health revolving account, the fruit and vegetable inspection account,
17 the educator conditional scholarship account, the game farm
18 alternative account, the GET ready for math and science scholarship
19 account, the Washington global health technologies and product
20 development account, the grain inspection revolving fund, the
21 Washington history day account, the industrial insurance rainy day
22 fund, the juvenile accountability incentive account, the law
23 enforcement officers' and firefighters' plan 2 expense fund, the
24 local tourism promotion account, the low-income home rehabilitation
25 revolving loan program account, the multiagency permitting team
26 account, the northeast Washington wolf-livestock management account,
27 the produce railcar pool account, the public use general aviation
28 airport loan revolving account, the regional transportation
29 investment district account, the rural rehabilitation account, the
30 Washington sexual assault kit account, the stadium and exhibition
31 center account, the youth athletic facility account, the self-
32 insurance revolving fund, the children's trust fund, the Washington
33 horse racing commission Washington bred owners' bonus fund and
34 breeder awards account, the Washington horse racing commission class
35 C purse fund account, the individual development account program
36 account, the Washington horse racing commission operating account,
37 the life sciences discovery fund, the Washington state library-
38 archives building account, the reduced cigarette ignition propensity
39 account, the center for deaf and hard of hearing youth account, the
40 school for the blind account, the Millersylvania park trust fund, the

1 public employees' and retirees' insurance reserve fund, the school
2 employees' benefits board insurance reserve fund, the public
3 employees' and retirees' insurance account, the school employees'
4 insurance account, the long-term services and supports trust account,
5 the radiation perpetual maintenance fund, the Indian health
6 improvement reinvestment account, the department of licensing tuition
7 recovery trust fund, the student achievement council tuition recovery
8 trust fund, the tuition recovery trust fund, the industrial insurance
9 premium refund account, the mobile home park relocation fund, the
10 natural resources deposit fund, the Washington state health insurance
11 pool account, the federal forest revolving account, and the library
12 operations account.

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

20 (d) Any state agency that has independent authority over accounts
21 or funds not statutorily required to be held in the custody of the
22 state treasurer that deposits funds into a fund or account in the
23 custody of the state treasurer pursuant to an agreement with the
24 office of the state treasurer shall receive its proportionate share
25 of earnings based upon each account's or fund's average daily balance
26 for the period.

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

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

32 (1) Those administrative powers, duties, and functions of the
33 utilities and transportation commission that were performed under the
34 provisions of this chapter for the council prior to the effective
35 date of this section are transferred to the council as set forth in
36 this act.

37 (2)(a) All reports, documents, surveys, books, records, files,
38 papers, or written material in the possession of the utilities and
39 transportation commission pertaining to the powers, duties, and

1 functions transferred must be delivered to the custody of the
2 council. All cabinets, furniture, office equipment, motor vehicles,
3 and other tangible property under the inventory of the utilities and
4 transportation commission for the council must be transferred to the
5 council. All funds, credits, or other assets held by the utilities
6 and transportation commission for the benefit of the council, of
7 which were paid to the utilities and transportation commission
8 pursuant to this chapter must be assigned to the council and
9 transferred to the energy facility site evaluation council account
10 created in section 15 of this act.

11 (b) Any appropriations made to the utilities and transportation
12 commission for the council to carrying out its powers, functions, and
13 duties transferred must, on the effective date of this section, be
14 transferred and credited to the council. Any funds received pursuant
15 to payment made under this chapter must be credited to the council
16 and deposited in the energy facility site evaluation council account
17 created in section 15 of this act.

18 (c) If any question arises as to the transfer of any personnel,
19 funds, books, documents, records, papers, files, equipment, or other
20 tangible property used or held in the exercise of the powers and the
21 performance of the duties and functions transferred, the director of
22 financial management shall decide as to the proper allocation and
23 certify the same to the state agencies concerned.

24 (3) All pending business before the utilities and transportation
25 commission pertaining to the powers, duties, and functions
26 transferred must be continued and acted upon by the council. All
27 existing contracts and obligations remain in full force and must be
28 performed by the council.

29 (4) The transfer of the powers, duties, functions, and personnel
30 of the utilities and transportation commission does not affect the
31 validity of any act performed before the effective date of this
32 section.

33 (5) If apportionments of budgeted or nonbudgeted funds are
34 required because of the transfers directed by this section, the
35 director of financial management shall certify the apportionments to
36 the agencies affected, the state auditor, and the state treasurer.
37 Each of these shall make the appropriate transfer and adjustments in
38 funds and appropriation accounts and equipment records in accordance
39 with the certification.

1 (6) All employees of the utilities and transportation commission
2 that are engaged in performing the powers, functions, and duties of
3 the council, are transferred to the council. All employees classified
4 under chapter 41.06 RCW, the state civil service law, assigned to the
5 council shall continue to perform their usual duties upon the same
6 terms as formerly, without any loss of rights, subject to any action
7 that may be appropriate thereafter in accordance with the laws and
8 rules governing state civil service law.

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

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

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

26 (a) Commission an independent study to further measure the
27 consequences of the proposed (~~energy facility or alternative energy~~
28 ~~resource~~) facility on the environment, notwithstanding the other
29 provisions of RCW 80.50.071; nor

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

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

35 NEW SECTION. **Sec. 19.** This act takes effect June 30, 2022.

36 NEW SECTION. **Sec. 20.** The following acts or parts of acts are
37 each repealed:

1 (1) RCW 80.50.190 (Disposition of receipts from applicants) and
2 1977 ex.s. c 371 s 15; and
3 (2) RCW 80.50.904 (Effective date—1996 c 4) and 1996 c 4 s 6.

--- **END** ---