

(2) Permits may be issued for widths of vehicles in excess of the preceding limitations on highways or sections of highways which have been designed and constructed for width in excess of such limitations;

(3) These limitations may be rescinded when certification is made by military officials, or by officials of public or private power facilities, or when in the opinion of the department of transportation the movement or action is a necessary movement or action: PROVIDED FURTHER, That in the judgment of the department of transportation the structures and highway surfaces on the routes involved are capable of sustaining widths in excess of such limitation;

(4) These limitations shall not apply to movement during daylight hours on any two lane state highway where the gross weight, including load, does not exceed ((~~forty-five~~) eighty) thousand pounds and the overall width of load does not exceed sixteen feet: PROVIDED, That the minimum and maximum speed of such movements, prescribed routes of such movements, the times of such movements, limitation upon frequency of trips (which limitation shall be not less than one per week), and conditions to assure safety of traffic may be prescribed by the department of transportation or local authority issuing such special permit.

The applicant for any special permit shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular state highways for which permit to operate is requested and whether such permit is requested for a single trip or for continuous operation.

Passed the House April 16, 1981.

Passed the Senate April 14, 1981.

Approved by the Governor April 25, 1981.

Filed in Office of Secretary of State April 25, 1981.

## CHAPTER 64

[Substitute House Bill No. 467]

### ENERGY FACILITIES CERTIFICATION DECISIONS—JUDICIAL REVIEW

AN ACT Relating to review of energy facilities certification decisions; amending section 15, chapter 234, Laws of 1959 as last amended by section 90, chapter 158, Laws of 1979 and RCW 34.04.150; amending section 14, chapter 45, Laws of 1970 ex. sess. as amended by section 11, chapter 371, Laws of 1977 ex. sess. and RCW 80.50.140; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

***\*NEW SECTION. Section 1. The legislature has previously found that there is a pressing need for energy facilities and has therefore enacted statutes providing for unified procedures for siting energy facilities. The legislature further finds that considerable resources of the state have been devoted to participation in the process to approve or reject proposed energy facility***

*sites and to determine the terms and conditions of siting major energy projects in the state. The legislature finds that expeditious review of decisions of the energy facility site evaluation council should be afforded all participants in the administrative process. The legislature further finds that the council's presentation to federal bodies about the final decision concerning certifications of energy facilities in the state shall encompass only environmental, health and safety aspects of the certification agreements.*

\*Section 1. was vetoed, see message at end of chapter.

Sec. 2. Section 15, chapter 234, Laws of 1959 as last amended by section 90, chapter 158, Laws of 1979 and RCW 34.04.150 are each amended to read as follows:

This chapter shall not apply to the state militia, or the board of prison terms and paroles, or any institution of higher education as defined in RCW 28B.19.020. The provisions of RCW 34.04.090 through 34.04.130 shall not apply to the board of industrial insurance appeals or the board of tax appeals unless an election is made pursuant to RCW 82.03.140 or 82.03.190. The provisions of RCW 34.04.090 through 34.04.130 and the provisions of RCW 34.04.170 shall not apply to the denial, suspension or revocation of a driver's license by the department of licensing. To the extent they are inconsistent with RCW 80.50.140, the provisions of RCW 34.04.130, 34.04.133, and 34.04.140 shall not apply to review of decisions made under RCW 80.50.100. All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the administrative procedure act, shall be subject to the entire act.

Sec. 3. Section 14, chapter 45, Laws of 1970 ex. sess. as amended by section 11, chapter 371, Laws of 1977 ex. sess. and RCW 80.50.140 are each amended to read as follows:

(1) ~~((The approval or rejection of an application for certification by the governor shall be subject to judicial review pursuant to the provisions of chapter 34.04 RCW))~~ A final decision pursuant to RCW 80.50.100 on an application for certification shall be subject to judicial review pursuant to provisions of chapter 34.04 RCW and this section. Petitions for review of such a decision shall be filed in the Thurston county superior court. All petitions for review of a decision under RCW 80.50.100 shall be consolidated into a single proceeding before the Thurston county superior court. The Thurston county superior court shall certify the petition for review to the supreme court upon the following conditions:

- (a) Review can be made on the administrative record;
- (b) Fundamental and urgent interests affecting the public interest and development of energy facilities are involved which require a prompt determination;
- (c) An appeal to the supreme court would likely be made regardless of the determination of the Thurston county superior court; and
- (d) The record is complete for review.

The Thurston county superior court shall assign a petition for review of a decision under RCW 80.50.100 for hearing at the earliest possible date and shall expedite such petition in every way possible. If the court finds that review cannot be limited to the administrative record as set forth in subparagraph (a) of this subsection because there are alleged irregularities in the procedure before the council not found in the record, but finds that the standards set forth in subparagraphs (b), (c), and (d) of this subsection are met, the court shall proceed to take testimony and determine such factual issues raised by the alleged irregularities and certify the petition and its determination of such factual issues to the supreme court. Upon certification, the supreme court shall assign the petition for hearing at the earliest possible date, and it shall expedite its review and decision in every way possible.

(2) Objections raised by any party in interest concerning procedural error by the council shall be filed with the council within sixty days of the commission of such error, or within thirty days of the first public hearing or meeting of the council at which the general subject matter to which the error is related is discussed, whichever comes later, or such objection shall be deemed waived for purposes of judicial review as provided in this section.

(3) The rules and regulations adopted by the council shall be subject to judicial review pursuant to the provisions of chapter 34.04 RCW.

**NEW SECTION.** Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 16, 1981.

Passed the Senate April 13, 1981.

Approved by the Governor April 25, 1981, with the exception of Section 1 which is vetoed.

Filed in Office of Secretary of State April 25, 1981.

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

"I am returning herewith without my approval as to one section of Substitute House Bill No. 467 entitled:

"AN ACT Relating to review of energy facilities certification decisions."

Most of Section 1 is a reiteration of intent language found in Chapter 80.50 RCW. The last sentence, however, is an ambiguous statement that seems to imply a further restriction of the kinds of state concerns and issues that EFSEC can share with federal authorities. Since this language would only serve to cloud the authority of EFSEC, I have vetoed Section 1.

With the exception of Section 1, which I have vetoed, the remainder of Substitute House Bill No. 467 is approved."