

NEW SECTION. Sec. 8. There is added to chapter 8, Laws of 1965 and to chapter 43.22 RCW a new section to read as follows:

If the director of the department determines that the standards for factory built housing prescribed by statute, rule or regulation of another state are at least equal to the regulations prescribed under this act, and that such standards are actually enforced by such other state, he may provide by regulation that factory built housing approved by such other state shall be deemed to have been approved by the department.

NEW SECTION. Sec. 9. There is added to chapter 8, Laws of 1965 and to chapter 43.22 RCW a new section to read as follows:

Any person who violates any of the provisions of this act or any rules or regulations adopted pursuant to this act is guilty of a misdemeanor, punishable by a fine not exceeding five hundred dollars or by imprisonment not exceeding thirty days, or by both such fine and imprisonment.

Passed the Senate February 9, 1970  
Passed the House February 5, 1970  
Approved by the Governor February 20, 1970  
Filed in Office of Secretary of State February 24, 1970

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CHAPTER 45  
[Engrossed Senate Bill No. 49]  
THERMAL POWER PLANTS

AN ACT Relating to the location of thermal power plants; providing for the certification of siting and associated transmission line routing; establishing a thermal power plant site evaluation council; adding a new chapter to Title 80 RCW; prescribing penalties; and declaring an emergency.

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

NEW SECTION. Section 1. The legislature finds that the present and predicted growth in electric power demands in the state of Washington requires the development of a procedure for the selection and utilization of sites for thermal generating facilities and the identification of a state position with respect to each proposed site. The legislature recognizes that the selection of sites and

the routing of associated transmission lines will have a significant impact upon the welfare of the population, the location and growth of industry and the use of the natural resources of the state.

It is the policy of the state of Washington that, while recognizing the pressing need for increased power generation facilities, the state shall ensure through available and reasonable methods, that the location and operation of thermal power plants will produce minimal adverse effects on the environment, ecology of the land and its wildlife, and the ecology of state waters and their aquatic life.

It is the intent to seek courses of action that will balance the increasing demands for thermal power plant location and operation in conjunction with the broad interests of the public. Such action will be based on these premises:

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

(2) To preserve and protect the quality of the environment; to enhance the public's opportunity to enjoy the esthetic and recreational benefits of the air, water and land resources; to promote air cleanliness; and to pursue beneficial changes in the environment.

(3) To provide abundant low-cost electrical energy.

NEW SECTION. Sec. 2. (1) "Applicant" means any electric utility which makes application for a site location certification pursuant to the provisions of this act;

(2) "Application" means any request for approval of a particular site or sites filed in accordance with the procedures established pursuant to this act;

(3) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized;

(4) "Electric utility" means cities and towns, public utility districts, regulated electric companies, electric cooperatives and joint operating agencies, or combinations thereof, engaged in or authorized to engage in the business of generating, transmitting or distributing electric energy;

(5) "Site" means any proposed location wherein the power plant, related or supporting facilities, and associated transmission lines will be located;

(6) "Certification" means a binding agreement between an applicant and the state which shall embody compliance to the siting guidelines adopted in section 5 of this act as conditions to be met prior to or concurrent with the construction or operation of any thermal power plant coming under this act;

(7) "Associated transmission lines" means new transmission lines constructed to operate at nominal voltages in excess of 200,000 volts to connect a thermal power plant to the northwest power grid;

(8) "Independent consultants" means those persons who have no financial interest in the applicant's proposals and who are retained by the council to evaluate the applicant's proposals, supporting studies, or to conduct additional studies;

(9) "Thermal power plant" means, for the purpose of certification, any electrical generating facility using any fuel, including nuclear materials, for distribution of electricity by electric utilities;

(10) "Thermal power plant site evaluation council" or "council" means the body defined under section 3 of this act;

(11) "Counsel for environment" means an assistant attorney general or a special assistant attorney general who shall represent the public in accordance with section 8 of this act;

(12) "Construction" means on-site work and construction shall not be deemed to have commenced until there has been an expenditure of not less than two hundred fifty thousand dollars in on-site improvements, excluding exploratory work;

(13) "Chairman" means the chairman of the thermal power plant site evaluation council;

(14) "Member agency" means departments, agencies and commissions enumerated in subsection (3) of section 3 of this act.

NEW SECTION. Sec. 3. (1) There is hereby created and established a "thermal power plant site evaluation council".

(2) The chairman of the council shall be appointed by the governor with the advice and consent of the senate and shall serve at the pleasure of the governor. The salary of the chairman shall be determined pursuant to the provisions of RCW 43.03.028 as now or hereafter amended.

(3) The council shall consist of the directors, administrators, or their designees, of the following departments, agencies and commissions or their statutory successors:

- (a) Water pollution control commission
- (b) Department of water resources
- (c) Department of fisheries
- (d) Department of game
- (e) State air pollution control board
- (f) Department of parks and recreation
- (g) Department of health
- (h) Interagency committee for outdoor recreation
- (i) Department of commerce and economic development
- (j) Utilities and transportation commission
- (k) Office of program planning and fiscal management
- (l) Department of natural resources
- (m) Planning and community affairs agency
- (n) Department of civil defense
- (o) Department of agriculture.

(4) The county legislative authority of every county wherein an application for a proposed thermal power plant site is filed shall appoint a member to the council. The member so appointed shall sit with the council only at such times as the council considers the pro-

posed site for the county which he represents and such member shall serve until there has been a final acceptance or rejection of such proposed site.

NEW SECTION. Sec. 4. The council shall have the following powers:

(1) To adopt, promulgate, amend, or rescind suitable rules and regulations to carry out the provisions of this act, and the policies and practices of the council in connection therewith;

(2) To appoint an executive secretary to serve at the pleasure of the council;

(3) To appoint and prescribe the duties of such clerks, employees and agents as may be necessary to carry out the provisions of this act: PROVIDED, That such persons shall be employed pursuant to the provisions of chapter 41.06 RCW;

(4) To develop and apply topical environmental and ecological guidelines in relation to the type, design, and location of thermal power plant sites and associated transmission line routes;

(5) To establish rules of practice for the conduct of public hearings pursuant to the provisions of the Administrative Procedure Act, as found in chapter 34.04 RCW;

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

(7) To receive applications for site locations and to investigate the sufficiency thereof;

(8) To make and contract, when applicable, for independent studies of thermal power plant sites and transmission line routes proposed by the applicant;

(9) To conduct hearings on the proposed location of the thermal power plant sites and, when applicable, the associated transmission line routes;

(10) To prepare written reports to the governor which shall include: (a) a statement indicating whether the application is in compliance with the council's topical guidelines, (b) criteria spe-

cific to the site and transmission line routing, and (c) a council recommendation as to the disposition of the application;

(11) To prescribe the means for monitoring of the effects arising from the construction and the operation of thermal power plants, and where applicable, associated transmission lines to assure continued compliance with terms of certification.

NEW SECTION. Sec. 5. Promptly after it is organized under this act, the council shall give notice, pursuant to the Administrative Procedure Act, chapter 34.04 RCW, of intention to adopt as rules the comprehensive guidelines recommended by the thermal power plant evaluation council. The thermal power plant site evaluation council shall adopt the proposed guidelines as rules after making any changes or additions that are appropriate in view of facts and testimony presented at the hearing, provided that the guidelines so changed are consistent with the purposes of this act.

NEW SECTION. Sec. 6. (1) Provisions of this act shall apply to any stationary thermal power plant with generating capacity of two hundred fifty thousand kilowatts or more and floating thermal power plants of fifty thousand kilowatts or more, including associated transmission lines installed anywhere within the state of Washington. No construction of any such facility may be undertaken, after the effective date of this act, without first obtaining certification in the manner as herein provided, except that this act shall not apply to any such thermal power plant presently operating, or under construction, and its associated transmission lines.

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

NEW SECTION. Sec. 7. (1) The council shall receive all applications for thermal power plant site certification. A fee of twenty-five thousand dollars for each proposed site, to be applied toward the cost of any study authorized in subsection (2) of this section, shall accompany the application and shall be a condition

precedent to any further consideration or action on the application by the council.

(2) After receiving an application for site certification, the council shall commission its own, independent consultant study to measure the consequences of the proposed power plant on the environment for each site application. The council shall direct the consultant to study any matter which it deems essential to an adequate appraisal of the site. The full cost of the study shall be paid by the applicant: PROVIDED, That said costs exceeding a total of twenty-five thousand dollars shall be payable subject to applicant giving prior approval to such excess amount.

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

NEW SECTION. Sec. 8. After the council has received a site application, the attorney general shall appoint an assistant attorney general or a special assistant attorney general as a counsel for the environment who shall be a member of the bar of the state of Washington. The counsel for the environment shall represent the public and its interest in protecting the quality of the environment for the duration of the certification proceedings, until such time as the certification is issued or denied. He shall be accorded all the rights, privileges and responsibilities of an attorney representing a party in a formal action. This section shall not be construed to prevent any person from being heard or represented by counsel in accordance with the other provisions of this act.

NEW SECTION. Sec. 9. (1) The council shall conduct a public hearing in the county of the proposed site within sixty days of receipt of an application for site certification: PROVIDED, That the place of such public hearing shall be as close as practical to the proposed site.

(2) The council must determine at the initial public hearing whether or not the proposed site is consistent and in compliance with county or regional land use plans or zoning ordinances. If it is determined that the proposed site does conform with existing land use plans or zoning ordinances in effect as of the date of the application, the county or regional planning authority shall not thereafter change such land use plans or zoning ordinances so as to affect the proposed site.

(3) Prior to the issuance of a council recommendation to the governor under section 10 of this act a public hearing, conducted as a contested case under chapter 34.04 RCW, shall be held. At such public hearing any person shall be entitled to be heard in support of or in opposition to the application for certification.

(4) Additional public hearings shall be held as deemed appropriate by the council in the exercise of its functions under this act.

NEW SECTION. Sec. 10. (1) The council shall report to the governor its recommendations for the disposition of an application for certification within twelve months of receipt by the council of such an application, or such later time as is mutually agreed by the council and the applicant.

(2) Within sixty days of receipt of the council's report the governor shall approve or reject the application for certification.

(3) The issuance of denial of the certification by the governor shall be final as to that application.

(4) Upon approval by the governor of the application for certification the chairman of the council shall within thirty days compose and submit a certification agreement for execution by the governor and the applicant.

NEW SECTION. Sec. 11. (1) If any provision of this act is in conflict with any other provision, limitation, or restriction which is now in effect under any other law of this state, or any rule or regulation promulgated thereunder, this act shall govern and con-



trol and such other law or rule or regulation promulgated thereunder shall be deemed superseded for the purposes of this act.

(2) The state hereby preempts the regulation and certification of thermal power plant sites and thermal power plants as defined in section 2 of this act.

NEW SECTION. Sec. 12. (1) Subject to the conditions set forth therein any certification signed by the governor shall bind the state or any of its departments, agencies, divisions, bureaus, commissions or boards as to the approval of the site and the construction and operation of the proposed thermal power plant and any associated transmission lines.

(2) The certification shall authorize the electric utility named therein to construct and operate the proposed thermal power plant and any associated transmission lines subject only to the conditions set forth in such certification.

(3) The issuance of a certification shall be in lieu of any permit, certificate or similar document required by any department, agency, division, bureau, commission or board of this state.

NEW SECTION. Sec. 13. Any certification may be revoked or suspended:

(1) For any material false statement in the application or in the supplemental or additional statements of fact or studies required of the applicant when a true answer would have warranted the council's refusal to recommend certification in the first instance; or

(2) For failure to comply with the terms or conditions of the original certification; or

(3) For violation of the provisions of this act, regulations issued thereunder or order of the council.

NEW SECTION. Sec. 14. (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.

(2) 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. 15. (1) The courts are authorized to grant such restraining orders, and such temporary and permanent injunctive relief as is necessary to secure compliance with this act and/or with a site certification agreement issued pursuant to this act. The court may assess civil penalties in an amount not less than one thousand dollars per day nor more than twenty-five thousand dollars per day for each day of construction or operation in material violation of this act, or in material violation of any site certification agreement issued pursuant to this act.

(2) Wilful violation of any provision of this act shall be a gross misdemeanor.

(3) Civil or criminal proceedings to enforce this act may be brought through the attorney general by the prosecuting attorney of any county affected by the violation.

(4) The remedies and penalties in this section, both civil and criminal, shall be cumulative and shall be in addition to any other penalties and remedies available at law, or in equity, to any person.

NEW SECTION. Sec. 16. The council shall make available for public inspection and copying during regular office hours at the expense of any person requesting copies, any information filed or submitted pursuant to this act.

NEW SECTION. Sec. 17. If any provision of this act, or its application to any person or circumstance is held invalid, with the exception of sections 11 and 12 of this act, the remainder of the act, or the application of the provision to other persons or circumstances, is not affected.

NEW SECTION. Sec. 18. 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.

NEW SECTION. Sec. 19. Sections 1 through 18 of this act

shall constitute a new chapter in Title 80 RCW.

Passed the Senate January 31, 1970

Passed the House February 9, 1970

Approved by the Governor February 23, 1970, with the exception  
of an item in section 17 which is vetoed.

Filed in Office of Secretary of State February 24, 1970

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

"...This act establishes a procedure for evaluating and certifying proposed sites for thermal power plants in the State of Washington. Under present law, there is no set procedure in state government for reviewing an application to establish a thermal power plant facility. An applicant seeking to establish a plant, whether the applicant be a private industry or a unit of government, must now deal separately with a number of different units of government. The principal purpose of this act is to coordinate the interests and activities of each unit of state government that plays a role in the establishment, location, and operation of such a facility so that the state can have a unified position. It is a significant step forward in availing ourselves of this newly developing power resource.

Section 17 of the act provides that if any portions except sections 11 and 12 are declared to be unconstitutional, the remainder of the act shall be effective. There is no reason to believe any part of sections 11 or 12 is unconstitutional. No convincing argument has been suggested for striking down the entire act because of some now unknown flaws in these sections. I have therefore vetoed from Senate Bill 49 the exceptions from the severability clause of sections 11 and 12, so that each part of the act may be administered and, if necessary, examined solely on its own merits.

The remainder of Senate Bill 49 is approved."

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CHAPTER 46  
[Senate Bill No. 60]  
PUBLIC LANDS--SALES--LEASES

AN ACT Relating to public lands; and amending section 24, chapter 255, Laws of 1927 as last amended by section 1, chapter 78, Laws of 1967 ex. sess. and RCW 79.01.096.

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

Section 1. Section 24, chapter 255, Laws of 1927 as last amended by section 1, chapter 78, Laws of 1967 ex. sess. and RCW 79.01.096 are each amended to read as follows:

Not more than one hundred and sixty acres of any land granted