

be awarded a reasonable attorney's fee to be fixed by the court to be paid by the state of Washington.

NEW SECTION. Sec. 28. This 1975 amendatory 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. 29. If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Passed the House June 9, 1975.

Passed the Senate June 9, 1975.

Approved by the Governor July 2, 1975 with the exception of section 24 which is vetoed.

Filed in Office of Secretary of State July 2, 1975.

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

"I am returning herewith without my approval as to one section Engrossed Substitute House Bill No. 827 entitled:

"AN ACT Relating to open government."

This bill makes a number of changes in RCW chapter 42.17, the Public Disclosure Act (Initiative 276).

Section 24(9) contains a proviso which would require the Public Disclosure Commission to hold formal hearings under the Administrative Procedure Act when it finds that "probable cause exists to believe that any party has committed an apparent violation of this chapter" Although the wording of the subsection is not clear, it would appear to require the commission to (1) find probable cause, (2) hold a hearing under the APA, and based on the evidence, (3) find an apparent violation, and (4) refer the matter to the appropriate enforcement agency.

A requirement to hold formal "contested case" hearings would make sense if it were coupled with a grant of authority enabling the Commission to impose administrative remedies or penalties, or determine private rights pursuant to such hearings. However, the commission has no such authority, and I believe a requirement of that kind without corresponding authority to impose administrative sanctions would be a hollow and useless form of due process.

I am advised also that this requirement would impose an enormous administrative burden on the Public Disclosure Commission for which it has no present capability to handle. In light of the lack of real need for this provision, I cannot accept this change.

For these reasons, I have determined to veto section 24 of the bill since I am unable to veto only the applicable subsection. With the exception of that section, the remainder of the bill is approved."

CHAPTER 295

[Substitute House Bill No. 867]

AGRICULTURAL WATER SUPPLY FACILITIES

AN ACT Relating to agricultural water supply facilities; making designations of funds; setting forth guidelines; adding new sections to chapter 43.83B RCW; making an appropriation; and declaring an emergency.

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

NEW SECTION. Section 1. The proceeds from repayment of any loans made for agricultural water supply facilities and the interest earned from such loans, any gifts, grants, or other funds provided to the state for agricultural water supply facilities, and any interest earned on the interim investment of such funds or proceeds shall be deposited in the state and local improvements revolving account—water supply facilities and shall be used exclusively for agricultural water supply facilities.

**NEW SECTION. Sec. 2. The department of ecology is authorized to make loans or grants or combinations thereof to eligible state or federal public bodies for the Second Bacon Siphon and Tunnel with the intent of recovering such funds to the extent feasible. With respect to loans, if any, approved for such purpose, interest rates shall not exceed that interest rate incurred by the state in its most recent sale of general obligation bonds to finance water supply facilities in accordance with this chapter. Such loans, if any, shall be repaid over a period not to exceed fifty years. The director of the department of ecology or his designee is authorized to make contractual agreements in accordance with provisions of this section on behalf of the state of Washington. Contractual agreements may include provisions to secure such loans. No contractual agreement authorized by this section shall be executed by the department of ecology without the review and approval by the department of the project plans and the concurrence of the technical advisory committee, created by section 6 of this act, of the project plans and contractual agreements: PROVIDED, That such funding for the Second Bacon Siphon and Tunnel, whether in the form of a grant, loan, or combination thereof, shall be contingent on approval by the ways and means committees of the senate and house of the department's negotiations on the funding and financing thereof with the United States Bureau of Reclamation and related federal and local agencies.*

**Sec. 2. was vetoed, see message at end of chapter.*

NEW SECTION. Sec. 3. The department of ecology is authorized to make loans or grants or combinations thereof to eligible public bodies as defined in RCW 43.83B.050 for rehabilitation or betterment of agricultural water supply facilities, and/or construction of agricultural water supply facilities required to develop new irrigated lands. The department of ecology may make such loans or grants or combinations thereof as matching funds in any case where federal, local, or other funds have been made available on a matching basis. A loan or combination loan and grant shall not exceed fifty percent of the approved eligible project costs for any single proposed project. Any grant or grant portion of a combination loan and grant for any single proposed project shall not exceed fifteen percent of the eligible project costs.

**NEW SECTION. Sec. 4. Loans or the loan portions of combination loans and grants shall be repayable with interest at rates established by the department of ecology and the technical advisory committee, but in no event shall the interest rates exceed that interest rate incurred by the state in its most recent sale of general obligation bonds to finance water supply facilities in accordance with this chapter. Such loans shall be repaid over a period not to exceed fifty years.*

**Sec. 4. was vetoed, see message at end of chapter.*

NEW SECTION. Sec. 5. In addition to the powers granted by sections 2 and 3 of this act, the director of the department of ecology or his designee is authorized to make contractual agreements in accordance with provisions of this chapter on behalf of the state of Washington. Contractual agreements shall include provisions to secure such loans, and shall assure the proper and timely payment of said loans or loan portions of combination loans and grants.

***NEW SECTION.** Sec. 6. There is hereby created a technical advisory committee whose purposes shall be to assist the department of ecology in:

- (1) Establishing criteria to determine project feasibility;
- (2) Reviewing and considering proposed projects for loans or grants or combinations thereof;
- (3) Developing criteria and standards based upon project feasibility for determining among potential projects those which will receive funding assistance;
- (4) Approving or disapproving projects for funding assistance; and
- (5) Establishing for each loan the rate of interest for use of loaned capital and determining the repayment period for each loan. No project shall be approved for funding without the concurrence of the technical advisory committee.

***Sec. 6. was vetoed, see message at end of chapter.**

***NEW SECTION.** Sec. 7. The technical advisory committee created by section 6 of this act shall be composed of seven members as follows:

- (1) The director of the department of ecology or his appointed representative;
- (2) The director of the department of agriculture or his appointed representative;
- (3) One member designated by the Washington state association of irrigation districts;
- (4) One member designated by the Washington state reclamation association;
- (5) The dean of the college of agriculture, Washington state university, or his appointed representative;
- (6) One member designated by the Washington state association of soil conservation districts; and
- (7) One member, not a state employee, appointed by the director of the department of ecology, at or before the second meeting of the technical advisory committee, with concurrence of the majority of the technical advisory committee members. The term for such member shall be three years: **PROVIDED**, That such member may be reappointed with the concurrence of the majority of the technical advisory committee members.

The appropriate authorities of the United States bureau of reclamation, the United States soil conservation service, and the state office of program planning and fiscal management shall each be asked to designate one *ex officio* member who shall not be eligible to vote or be the technical advisory committee chairman. In addition, the president of the senate shall appoint one member of the senate from each major political party and the speaker of the house of representatives shall appoint one member of the house of representatives from each major political party who shall also serve for a two-year term as *ex officio* members who shall not be eligible to vote or be the technical advisory committee chairman. The members of the legislature, who serve as *ex officio* members, shall collect data for reports to the agricultural committees of the senate and house of representatives

and for future legislative proposals, and shall be deemed engaged in legislative business while in attendance upon the business of the technical advisory committee and shall be limited to such allowances therefor as provided in chapter 43.03 RCW. Members of the technical advisory committee shall serve until replaced by their sponsoring entities, except for the member provided for in subsection (7) of this section.

The director of the department of ecology shall be responsible for calling the first meeting of the technical advisory committee and the director or his designee shall act as temporary chairman. At such meeting the committee shall elect its own chairman. Representatives of the departments of ecology and agriculture shall never be eligible to serve as chairman. Chairmen will serve one year terms. The committee shall have authority to establish its own rules and to set times and places of meetings. Staff support for the committee shall be provided by the department of ecology.

Members of the technical advisory committee who are not regular full time employees of a public agency or institution or elected members of the legislature shall serve without compensation but shall be reimbursed for travel and other expenses in the same manner as provided for state officials generally in chapter 43.03 RCW as now or hereafter amended.

*Sec. 7. was vetoed, see message at end of chapter.

*NEW SECTION. Sec. 8. The department of ecology and the technical advisory committee shall develop criteria for project evaluation and shall submit them to the standing ways and means committees of the senate and house of representatives, which committees shall approve or disapprove the criteria as being within the intent of this chapter, and no commitment or disbursement whatever shall be made under the authority of this act until such criteria shall have been approved. Subsequently, the department of ecology and the technical advisory committee annually shall submit a report to the ways and means committees of the senate and house of representatives for their review and comment.

*Sec. 8. was vetoed, see message at end of chapter.

*NEW SECTION. Sec. 9. The department of ecology and the technical advisory committee shall establish and announce, with adequate public notice, both an application period and a schedule to consider proposed projects.

*Sec. 9. was vetoed, see message at end of chapter.

*NEW SECTION. Sec. 10. Upon receiving applications the department of ecology shall determine whether all other available funds will be utilized to the maximum extent possible. Prior to any commitment of funds a feasibility report for each proposed project shall be submitted to the department of ecology and the technical advisory committee. This report shall contain sufficient data to demonstrate the project's engineering, economic, and financial feasibility. Any proposed project shall have a benefit-cost ratio greater than one in order to be economically feasible. Applications and supporting reports shall be evaluated on the basis of the established criteria.

*Sec. 10. was vetoed, see message at end of chapter.

*NEW SECTION. Sec. 11. At least once a year the department of ecology and the technical advisory committee shall, through a competitive selection process,

make a preliminary selection of those projects which will receive funding assistance. Within ninety days after the preliminary selection of the projects the department of ecology and the technical advisory committee, after providing adequate public notice to all interested parties, shall conduct a public hearing on the selected projects. After the public hearing the department of ecology and the technical advisory committee shall make the final selection of projects to be funded: *PROVIDED HOWEVER*, That the department shall inform the ways and means committees of the senate and house of representatives as to the projects which have been preliminarily selected for approval, and as to the proposed terms and conditions of financing related to each such project, at least 30 days prior to the commitment of any state funds under this act.

Proposed projects not selected for funding assistance may be considered during a subsequent funding period following petition by the applicants.

***Sec. 11. was vetoed, see message at end of chapter.**

***NEW SECTION.** *Sec. 12. Upon final selection of a project for funding assistance letters of intent may obligate appropriated funds subject to the execution of a contract within a period not to exceed two years from the date of the letter. Before a contractual agreement is made the department of ecology and the technical advisory committee must be satisfied that the nonstate share of any project financing has been assured.*

***Sec. 12. was vetoed, see message at end of chapter.**

***NEW SECTION.** *Sec. 13. The department of ecology and the technical advisory committee shall consider requests from existing public bodies operating irrigation systems for emergency loans to assist in the repair or replacement of systems rendered inoperable or impaired by some natural disaster. The department of ecology and the technical advisory committee may make such loans: PROVIDED, That contractual agreements are provided to assure proper and timely repayment: PROVIDED FURTHER, That emergency loans must be necessary to insure the timely and adequate delivery of water for the current or ensuing irrigation season.*

***Sec. 13. was vetoed, see message at end of chapter.**

NEW SECTION. *Sec. 14. In the course of considering applications under this chapter, the department of ecology shall make known to other state agencies possibilities which may arise to provide public benefits such as recreation or fish and wildlife enhancement in connection with proposed projects. Such agencies, including the department of ecology, are authorized to participate in said projects provided agency funds are made available to pay the full cost of their participation.*

***NEW SECTION.** *Sec. 15. Commitments and expenditures undertaken or incurred by the department of ecology for agricultural water supply facilities pursuant to this chapter prior to the effective date of this act shall not be subject to the provisions of sections 1 through 14 of this act.*

Section 2 of this act shall apply only to the Second Bacon Siphon and Tunnel.

Section 3 through 14 shall not apply to the Second Bacon Siphon and Tunnel except for the duties of the technical advisory committee set forth in section 2 of this act.

*Sec. 15. was vetoed, see message at end of chapter.

NEW SECTION. Sec. 16. There is hereby appropriated to the department of ecology from the general fund—state and local improvements revolving account—water supply facilities (appropriated pursuant to chapter 128, Laws of 1972 ex. sess.—Referendum 27) for the biennium ending June 30, 1977, the sum of \$164,202, or so much thereof as shall be necessary, for administration and planning of agricultural water supply projects.

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

NEW SECTION. Sec. 18. Sections 1 through 15 of this act shall be added to chapter 43.83B RCW.

NEW SECTION. Sec. 19. 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 June 9, 1975.

Passed the Senate June 8, 1975.

Approved by the Governor July 2, 1975 with the exception of certain items which are vetoed.

Filed in Office of Secretary of State July 2, 1975.

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

"I am returning herewith without my approval as to certain sections Substitute House Bill No. 867 entitled:

"AN ACT Relating to agricultural water supply facilities."

The intent of the bill, insofar as it sets out a general policy and limitations on the use of Referendum 27 funds for agricultural water supply facilities, is highly commendable. Until the present time, there has been no clear statutory delineation of how these funds are to be used. Furthermore, the establishment of specific criteria to determine project feasibility and relative priority of proposed projects is highly desirable.

Section 6 of the bill creates what is purported to be a technical "advisory" committee vested with wide-ranging policy-making responsibilities and substantive powers in regard to project criteria and selection, interest rates, repayment periods, and other matters. Although I have no objection to the creation of such a committee in an advisory capacity and do not doubt its potential value, I cannot accept the premise that the intent of the Legislature and the duties assigned to the department under the bill can be more effectively achieved through the division of responsibilities between the committee and the department. The delegation of substantive functions to a committee consisting of diverse and potentially conflicting interests may well delay and inhibit legislative directives and unduly complicate the achievement of the purposes of the bill. I believe the tasks can be performed more promptly and efficiently by the Department of Ecology, particularly to the extent that legislative intent is clearly defined and adequate staff funding provided. I would not hesitate to approve a bill containing sections substantially the same as herein vetoed but charging the department with the primary responsibility for administering the bill.

I further cannot accept the provisions of sections 2 and 8 which require the approval of the Ways and Means Committees of each house of financing arrangements and project criteria relating to the expenditure of Referendum 27 funds. As I have set out more fully in my veto message attached to Substitute House Bill 111 dated

March 17, 1975, I believe these provisions constitute an encroachment into executive functions by legislative committees and further question whether this is a valid delegation of legislative power.

With the exception of sections 2, 4, 6, 7, 8, 9, 10, 11, 12, 13, and 15 which I have vetoed for the foregoing reasons, the remainder of Substitute House Bill 867 is approved."

CHAPTER 296

[Engrossed Substitute Senate Bill No. 2408]
PUBLIC EMPLOYMENT RELATIONS

AN ACT Relating to public employment labor relations; amending section 28A.72.020, chapter 223, Laws of 1969 ex. sess. and RCW 28A.72.020; amending section 28A.72.060, chapter 223, Laws of 1969 ex. sess. as amended by section 3, chapter 52, Laws of 1969 ex. sess. and RCW 28A.72.060; amending section 28A.72.080, chapter 223, Laws of 1969 ex. sess. and RCW 28A.72.080; amending section 1, chapter 115, Laws of 1973 1st ex. sess. and RCW 28A.72.100; amending section 2, chapter 196, Laws of 1971 ex. sess. as amended by section 1, chapter 205, Laws of 1973 1st ex. sess. and RCW 28B.52.020; amending section 5, chapter 196, Laws of 1971 ex. sess. as amended by section 3, chapter 205, Laws of 1973 1st ex. sess. and RCW 28B.52.060; amending section 7, chapter 196, Laws of 1971 ex. sess. as amended by section 5, chapter 205, Laws of 1973 1st ex. sess. and RCW 28B.52.080; amending section 3, chapter 108, Laws of 1967 ex. sess. as amended by section 2, chapter 131, Laws of 1973 and RCW 41.56.030; amending section 5, chapter 108, Laws of 1967 ex. sess. and RCW 41.56.050; amending section 6, chapter 108, Laws of 1967 ex. sess. and RCW 41.56.060; amending section 7, chapter 108, Laws of 1967 ex. sess. and RCW 41.56.070; amending section 8, chapter 108, Laws of 1967 ex. sess. and RCW 41.56.080; amending section 9, chapter 108, Laws of 1967 ex. sess. and RCW 41.56.090; amending section 10, chapter 108, Laws of 1967 ex. sess. and RCW 41.56.100; amending section 2, chapter 59, Laws of 1973 and RCW 41.56.122; amending section 3, chapter 59, Laws of 1973 and RCW 41.56.125; amending section 3, chapter 215, Laws of 1969 ex. sess. and RCW 41.56.160; amending section 4, chapter 215, Laws of 1969 ex. sess. and RCW 41.56.170; amending section 5, chapter 215, Laws of 1969 ex. sess. and RCW 41.56.180; amending section 6, chapter 215, Laws of 1969 ex. sess. and RCW 41.56.190; amending section 3, chapter 131, Laws of 1973 and RCW 41.56.440; amending section 4, chapter 131, Laws of 1973 and RCW 41.56.450; amending section 7, chapter 131, Laws of 1973 and RCW 41.56.480; amending section 43.22.260, chapter 8, Laws of 1965 as last amended by section 11, chapter 16, Laws of 1973 2nd ex. sess. and RCW 43.22.260; amending section 43.22.270, chapter 8, Laws of 1965 as last amended by section 12, chapter 16, Laws of 1973 2nd ex. sess. and RCW 43.22.270; amending section 47.64.010, chapter 13, Laws of 1961 and RCW 47.64.010; amending section 47.64.030, chapter 13, Laws of 1961 and RCW 47.64.030; amending section 47.64.040, chapter 13, Laws of 1961 and RCW 47.64.040; amending section 1, chapter 58, Laws of 1903 and RCW 49.08.010; amending section 2, chapter 58, Laws of 1903 and RCW 49.08.020; amending section 3, chapter 101, Laws of 1967 and RCW 53.18.030; adding a new chapter to Title 41 RCW; and repealing section 47.64.020, chapter 13, Laws of 1961 and RCW 47.64.020.

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

NEW SECTION. Section 1. (1) It is the intent of the legislature by the adoption of this 1975 amendatory act to provide, in the area of public employment, for the more uniform and impartial (a) adjustment and settlement of complaints, grievances, and disputes arising out of employer-employee relations and, (b) selection and certification of bargaining representatives by transferring jurisdiction of such matters to the public employment relations commission from other boards and commissions. It is further the intent of the legislature, by such transfer, to achieve more efficient and expert administration of public labor relations administration and to thereby ensure the public of quality public services.

(2) Nothing contained in this 1975 amendatory act shall be construed to alter any existing collective bargaining unit or the provisions of any existing bargaining agreement.