

NEW SECTION. Sec. 15. Upon dismissal of charges or acquittal of any accused person the department shall immediately pay over to such accused person the moneys in the escrow account established on behalf of such accused person.

NEW SECTION. Sec. 16. Upon a showing by any convicted person that five years have elapsed from the establishment of such escrow account and further that no actions are pending against such convicted person pursuant to this act, the department shall immediately pay over any moneys in the escrow account to such person or his legal representatives.

NEW SECTION. Sec. 17. For purposes of this act, a person found not guilty as a result of the defense of mental disease or defect shall be deemed to be a convicted person.

NEW SECTION. Sec. 18. Notwithstanding any inconsistent provision of the civil practice and rules with respect to the timely bringing of an action, the five year period provided for in section 13 of this act shall not begin to run until an escrow account has been established.

NEW SECTION. Sec. 19. Notwithstanding the foregoing provisions of this act the department shall make payments from an escrow account to any person accused or convicted of a crime upon the order of a court of competent jurisdiction after a showing by such person that such moneys shall be used for the exclusive purpose of retaining legal representation at any stage of the proceedings against such person, including the appeals process.

NEW SECTION. Sec. 20. Any action taken by any person accused or convicted of a crime, whether by way of execution of a power of attorney, creation of corporate entities or otherwise, to defeat the purpose of this act shall be null and void as against the public policy of this state.

NEW SECTION. Sec. 21. Sections 12 through 20 of this act are each added to chapter 7.68 RCW.

NEW SECTION. Sec. 22. 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.

Passed the House May 15, 1979.

Passed the Senate May 10, 1979.

Approved by the Governor June 4, 1979.

Filed in Office of Secretary of State June 4, 1979.

CHAPTER 220

[Substitute House Bill No. 1075]

OPERATING AGENCIES—THERMAL POWER PLANTS—PERFORMANCE
AUDITS

AN ACT Relating to operating agencies; providing for the appointment of an independent administrative auditor and prescribing the duties of such auditor; requiring management performance audits of the operating agency by at least one qualified independent firm and the evaluation of such audits by the legislative budget committee; subjecting operating agencies to the open public meetings act and the public disclosure act; and adding new sections to chapter 43.52 RCW.

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

NEW SECTION. Section 1. There is added to chapter 43.52 RCW a new section to read as follows:

The board of directors of any operating agency constructing or operating a thermal power plant under a site certification agreement issued pursuant to chapter 80.50 RCW shall appoint an administrative auditor. The administrative auditor shall be deemed an officer under chapter 42.23 RCW. The appointment of the administrative auditor shall be in addition to the appointment of the auditor for the issuance of warrants and other purposes as provided in RCW 43.52.375. The board shall retain a qualified firm or firms to conduct performance audits, including such engineering expertise as the board deems necessary, which is in fact independent and does not have any interest, direct or indirect, in any contract with the operating agency other than its employment hereunder. No member or employee of any such firm shall be connected with the operating agency as an officer, employee, or contractor. The administrative auditor and the firm or firms shall be independently and directly responsible to the board of directors of the operating agency. The board shall require a firm to conduct continuing audits of the methods, procedures and organization used by the operating agency to control costs, schedules, productivity, contract amendments, project design and any other topics deemed desirable by the board. The board may also require a firm to analyze particular technical aspects of the operating agency's projects and contract amendments. The firm or firms shall provide advice to the board in its management and control of the operating agency. At least once each year, the firm or firms shall prepare and furnish a report of its actions and recommendations to the board for the purpose of enabling it to attain the highest degree of efficiency in the management and control of any thermal power project under construction or in operation. The administrative auditor shall assist the firm or firms in the performance of its duties. The administrative auditor and the firm or firms shall consult regularly with the board and furnish any information or data to the board which the administrative auditor, firm, or board deems helpful in accomplishing the purpose above stated. The administrative auditor shall perform such other duties as the board shall prescribe to accomplish the purposes of this section.

In addition to the powers and duties conferred by chapter 44.28 RCW, the legislative budget committee shall evaluate such management audits as to adequacy and effectiveness of procedure and shall consult with and make

reports and recommendations to the board. The operating agency shall reimburse the legislative budget committee for all costs of furnishing such services.

The operating agency shall file a copy of each firm's reports, and the legislative budget committee shall file a copy of each of its reports or recommendations in a timely manner, prepared in accordance with this section, with the respective chairmen of the senate and house energy and utilities committees. Upon the concurrent request of the chairmen of the senate or house energy and utilities committees, the operating agency shall report to the committees on a quarterly basis.

****NEW SECTION. Sec. 2. There is added to chapter 43.52 RCW a new section to read as follows:***

The legislature hereby declares that an operating agency or joint operating agency created by or under authorization of this chapter is an "agency" within the definition and meaning set forth in RCW 42.17.020(1) and a "public agency" under the definition and meaning set forth in RCW 42.30.020. As such an "agency", each operating agency, joint operating agency and each and every subagency, board, committee, commission, participating agency or any other internal organization thereof, however designated, shall be fully subject to chapter 42.30 RCW and chapter 42.17 RCW.

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

Passed the House May 7, 1979.

Passed the Senate May 1, 1979.

Approved by the Governor June 4, 1979 with the exception of Section 2, which is vetoed.

Filed in Office of Secretary of State June 4, 1979.

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

"I am returning herewith without my approval as to one section Substitute House Bill No. 1075 entitled:

"AN ACT Relating to operating agencies;"

The obvious intent of this bill as contained in Section 1 is to assure the opportunity for review of thermal power plant construction and management by both qualified auditors and the general public. This is a reasonable practice in the management of public services. Section 2 makes the construction and management of thermal power plants subject to the "disclosure" and "public meeting" laws. It does so by citing both of these statutes. The problem arises in Section 2 where the definition of scope is set out. The terms "participating agency or other internal organization thereof" are not consistent with the scope of either of the two cited statutes, nor do the terms have any more exact definition by statutes or in common usage. Therefore, the limits of application for this section are unclear. It could be interpreted to demand public meetings for contractors who are supplying pencils to the power plant. The mandate is unreasonable and it would be impossible to comply. Further, since thermal power plants are now subject to the disclosure and public meeting statutes, a more certain application of these laws should be used.

For these reasons, I have vetoed Section 2 of Substitute House Bill No. 1075."