

28B.14C.110(2), 28B.14C.120(2), and 28B.14C.130(2) shall be subject and subordinate to the lien and charge of any revenue bonds hereafter issued, on the general tuition fees and/or other revenues pledged to secure such bonds, and on the moneys in the building account or capital project account and the individual institutions of higher education bond retirement funds.

NEW SECTION. Sec. 11. Sections 1 through 10 of this act shall constitute a new chapter in Title 28B RCW.

NEW SECTION. Sec. 12. 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. 13. 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 Senate May 8, 1979.

Passed the House May 31, 1979.

Approved by the Governor June 21, 1979.

Filed in Office of Secretary of State June 21, 1979.

CHAPTER 254

[Engrossed Substitute Senate Bill No. 2979.]

ENERGY FACILITIES—PERMITS—FEDERAL COMPLIANCE

AN ACT Relating to energy; amending section 4, chapter 45, Laws of 1970 ex. sess. as last amended by section 4, chapter 371, Laws of 1977 ex. sess. and RCW 80.50.040; amending section 15, chapter 45, Laws of 1970 ex. sess. as amended by section 12, chapter 371, Laws of 1977 ex. sess. and RCW 80.50.150; prescribing penalties; and declaring an emergency.

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

Section 1. Section 4, chapter 45, Laws of 1970 ex. sess. as last amended by section 4, chapter 371, Laws of 1977 ex. sess. and RCW 80.50.040 are each amended to read as follows:

The council shall have the following powers:

(1) To adopt, promulgate, amend, or rescind suitable rules and regulations, pursuant to chapter 34.04 RCW, to carry out the provisions of this chapter, 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 chapter: PROVIDED, That such persons shall be employed pursuant to the provisions of chapter 41.06 RCW;

(4) To develop and apply environmental and ecological guidelines in relation to the type, design, location, construction, and operational conditions of certification of energy facilities subject to this chapter;

(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 energy facility locations and to investigate the sufficiency thereof;

(8) To make and contract, when applicable, for independent studies of sites proposed by the applicant;

(9) To conduct hearings on the proposed location of the energy facilities;

(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 guidelines, (b) criteria specific to the site and transmission line routing, (c) a council recommendation as to the disposition of the application, and (d) a draft certification agreement when the council recommends approval of the application;

(11) To prescribe the means for monitoring of the effects arising from the construction and the operation of energy facilities to assure continued compliance with terms of certification and/or permits issued by the council pursuant to chapter 90.48 RCW or RCW 80.50.040(14): PROVIDED, That any on-site inspection required by the council shall be performed by other state agencies pursuant to interagency agreement: PROVIDED FURTHER, That the council shall retain authority for determining compliance relative to monitoring;

(12) To integrate its site evaluation activity with activities of federal agencies having jurisdiction in such matters to avoid unnecessary duplication; ~~((and))~~

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

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

Sec. 2. Section 15, chapter 45, Laws of 1970 ex. sess. as amended by section 12, chapter 371, Laws of 1977 ex. sess. and RCW 80.50.150 are each amended to read as follows:

(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 chapter and/or with a site certification agreement issued pursuant to this chapter or a National Pollutant Discharge Elimination System (hereafter in this section, NPDES) permit issued by the council pursuant to chapter 90.48 RCW or any permit issued pursuant to RCW 80.50.040(14). 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 chapter, or in material violation of any site certification agreement issued pursuant to this chapter, or in violation of any NPDES permit issued by the council pursuant to chapter 90.48 RCW, or in violation of any permit issued pursuant to RCW 80.50.040(14). The court may charge the expenses of an enforcement action relating to a site certification agreement under this section, including, but not limited to, expenses incurred for legal services and expert testimony, against any person found to be in material violation of the provisions of such certification: PROVIDED, That the expenses of a person found not to be in material violation of the provisions of such certification, including, but not limited to, expenses incurred for legal services and expert testimony, may be charged against the person or persons bringing an enforcement action or other action under this section.

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

(3) Wilful or criminally negligent, as defined in RCW 9A.08.010(d), violation of any provision of an NPDES permit issued by the council pursuant to chapter 90.48 RCW or any permit issued by the council pursuant to RCW 80.50.040(14) or any emission standards promulgated by the council in order to implement the Federal Clean Air Act and the state implementation plan with respect to energy facilities under the jurisdiction provisions of this chapter shall be deemed a crime, and upon conviction thereof shall be punished by a fine of up to twenty-five thousand dollars per day and costs of prosecution. Any violation of this subsection shall be a gross misdemeanor.

(4) Any person knowingly making any false statement, representation, or certification in any document in any NPDES form, notice, or report required by an NPDES permit or in any form, notice, or report required for or by any permit issued pursuant to RCW 80.50.090(14) shall be deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars and costs of prosecution.

(5) Every person who violates the provisions of certificates and permits issued or administered by the council shall incur, in addition to any other

penalty as provided by law, a penalty in an amount of up to five thousand dollars a day for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be and be deemed to be a separate and distinct violation. Every act of commission or omission which procures, aids, or abets in the violation shall be considered a violation under the provisions of this section and subject to the penalty provided in this section. The penalty provided in this section shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the council describing such violation with reasonable particularity. The council may, upon written application therefor received within fifteen days after notice imposing any penalty is received by the person incurring the penalty, and when deemed in the best interest to carry out the purposes of this chapter, remit or mitigate any penalty provided in this section upon such terms as the council shall deem proper, and shall have authority to ascertain the facts upon all such applications in such manner and under such regulations as it may deem proper. Any person incurring any penalty under this section may appeal the same to the council. Such appeals shall be filed within thirty days of receipt of notice imposing any penalty unless an application for remission or mitigation is made to the council. When an application for remission or mitigation is made, such appeals shall be filed within thirty days of receipt of notice from the council setting forth the disposition of the application. Any penalty imposed under this section shall become due and payable thirty days after receipt of a notice imposing the same unless application for remission or mitigation is made or an appeal is filed. When an application for remission or mitigation is made, any penalty incurred hereunder shall become due and payable thirty days after receipt of notice setting forth the disposition of the application unless an appeal is filed from such disposition. Whenever an appeal of any penalty incurred hereunder is filed, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part. If the amount of any penalty is not paid to the council within thirty days after it becomes due and payable, the attorney general, upon the request of the council, shall bring an action in the name of the state of Washington in the superior court of Thurston county or of any county in which such violator may do business, to recover such penalty. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter. All penalties recovered under this section shall be paid into the state treasury and credited to the general fund.

(6) Civil proceedings to enforce this chapter may be brought by the attorney general or the prosecuting attorney of any county affected by the violation on his own motion or at the request of the council. Criminal

proceedings to enforce this chapter may be brought by the prosecuting attorney of any county affected by the violation on his own motion or at the request of the council.

~~((4))~~ (7) 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. 3. This 1979 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 Senate June 1, 1979.

Passed the House June 1, 1979.

Approved by the Governor June 21, 1979.

Filed in Office of Secretary of State June 21, 1979.

CHAPTER 255

[Engrossed Substitute Senate Bill No. 3008]
SALARIES OF STATE OFFICIALS

AN ACT Relating to salaries of state officials; amending section 43.03.010, chapter 8, Laws of 1965 as last amended by section 1, chapter 318, Laws of 1977 ex. sess. and RCW 43.03.010; amending section 1, chapter 173, Laws of 1941 as last amended by section 2, chapter 3, Laws of 1969 and RCW 44.04.080; amending section 1, chapter 10, Laws of 1959 ex. sess. as last amended by section 2, chapter 157, Laws of 1974 ex. sess. and RCW 44.04.120; amending section 1, chapter 144, Laws of 1953 as last amended by section 2, chapter 318, Laws of 1977 ex. sess. and RCW 2.04.090; amending section 6, chapter 221, Laws of 1969 ex. sess. as last amended by section 3, chapter 318, Laws of 1977 ex. sess. and RCW 2.06.060; amending section 2, chapter 144, Laws of 1953 as last amended by section 4, chapter 318, Laws of 1977 ex. sess. and RCW 2.08.090; amending section 1, chapter 259, Laws of 1957 as last amended by section 1, chapter 156, Laws of 1974 ex. sess. and RCW 2.56.010; amending section 100, chapter 299, Laws of 1961 as last amended by section 5, chapter 318, Laws of 1977 ex. sess. and RCW 3.58.010; amending section 101, chapter 299, Laws of 1961 as last amended by section 1, chapter 95, Laws of 1974 ex. sess. and RCW 3.58.020; making an appropriation; providing an effective date; and declaring an emergency.

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

Section 1. Section 43.03.010, chapter 8, Laws of 1965 as last amended by section 1, chapter 318, Laws of 1977 ex. sess. and RCW 43.03.010 are each amended to read as follows:

(1) Effective July 1, 1979, the annual salaries of the following named state elected officials shall be: Governor, ~~((fifty-five))~~ fifty-eight thousand nine hundred dollars; lieutenant governor, ~~((twenty-five))~~ twenty-six thousand eight hundred dollars plus a sum equal to 1/260th of the difference between the annual salary of the lieutenant governor and the annual salary of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor; secretary of state,