

CHAPTER 295

[Engrossed Substitute Senate Bill No. 4085]

STATE ENERGY OFFICE

AN ACT Relating to the state energy office; amending section 6, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 43.21F.060; amending section 15, chapter 108, Laws of 1975-'76 2nd ex. sess. as amended by section 1, chapter 328, Laws of 1977 ex. sess. and RCW 43.21G.010; amending section 43.31.040, chapter 8, Laws of 1965 as last amended by section 6, chapter 70, Laws of 1977 ex. sess. and RCW 43.31.040; amending section 5, chapter 161, Laws of 1980 and RCW 43.96C.050; amending section 3, chapter 45, Laws of 1970 ex. sess. as last amended by section 3, chapter 371, Laws of 1977 ex. sess. and RCW 80.50.030; adding new sections to chapter 43.21F RCW; adding a new section to chapter 41.06 RCW; repealing section 10, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 41.06.078; repealing section 2, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 43.21F.020; repealing section 3, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 43.21F.030; repealing section 4, chapter 108, Laws of 1975-'76 2nd ex. sess., section 87, chapter 99, Laws of 1979 and RCW 43.21F.040; repealing section 5, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 43.21F.050; repealing section 7, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 43.21F.070; repealing section 1, chapter 10, Laws of 1965 and RCW 43.31.280; repealing section 3, chapter 10, Laws of 1965 and RCW 43.31.290; repealing section 5, chapter 10, Laws of 1965, section 11, chapter 108, Laws of 1975-'76 2nd ex. sess., section 35, chapter 3, Laws of 1981 and RCW 43.31.300; repealing section 8, chapter 10, Laws of 1965 and RCW 43.31.310; repealing section 9, chapter 10, Laws of 1965 and RCW 43.31.320; repealing section 7, chapter 10, Laws of 1965 and RCW 43.31.330; repealing section 16, chapter 99, Laws of 1979 and RCW 43.131.179; repealing section 58, chapter 99, Laws of 1979 and RCW 43.131.180; repealing section 4, chapter 207, Laws of 1961, section 4, chapter 10, Laws of 1965 and RCW 70.98.040; and declaring an emergency.

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

NEW SECTION. Section 1. It is the policy of the state of Washington that:

(1) The development and use of a diverse array of energy resources with emphasis on renewable energy resources shall be encouraged;

(2) The supply of energy shall be sufficient to insure the health and economic welfare of its citizens;

(3) The development and use of energy resources shall be consistent with the statutory environmental policies of the state;

(4) Energy conservation and elimination of wasteful and uneconomic uses of energy and materials shall be encouraged, and this conservation should include, but is not limited to, resource recovery and materials recycling;

(5) In energy emergency shortage situations, energy requirements to maintain the public health, safety, and welfare shall be given priority in the allocation of energy resources, and citizens and industry shall be assisted in adjusting to the limited availability of energy in order to minimize adverse impacts on their physical, social, and economic well being; and

(6) State government shall provide a source of impartial and objective information in order that this energy policy may be enhanced.

NEW SECTION. Sec. 2. (1) "Energy" means petroleum or other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material; electricity; solar radiation; geothermal resources; hydropower; organic waste products; wind; tidal activity; any other substance or process used to produce heat, light, or motion; or the savings from nongeneration technologies, including conservation or improved efficiency in the usage of any of the sources described in this subsection;

(2) "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, joint operating agency, or any other entity, public or private, however organized;

(3) "Director" means the director of the state energy office;

(4) "Office" means the Washington state energy office;

(5) "Distributor" means any person, private corporation, partnership, individual proprietorship, utility, including investor-owned utilities, municipal utility, public utility district, joint operating agency, or cooperative, which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state; and

(6) "Council" means the energy advisory council created in section 7 of this act.

NEW SECTION. Sec. 3. The Washington state energy office is hereby created as an agency of state government, responsible to the governor and the legislature for carrying out the purposes of this chapter. The director shall be appointed by the governor with the consent of the senate and shall serve at the pleasure of the governor. The salary of the director shall be determined pursuant to RCW 43.03.040. The director shall employ such personnel as are necessary to implement this chapter. The employment of personnel shall be in accordance with chapter 41.06 RCW.

NEW SECTION. Sec. 4. The energy office shall have the following duties:

(1) The office shall prepare and update contingency plans for implementation in the event of energy shortages or emergencies. The plans shall conform to chapter 43.21G RCW and shall include procedures for determining when these shortages or emergencies exist, the state officers and agencies to participate in the determination, and actions to be taken by various agencies and officers of state government in order to reduce hardship and maintain the general welfare during these emergencies. The office shall coordinate the activities undertaken pursuant to the subsection with other persons. The components of plans that require legislation for their implementation shall be presented to the legislature in the form of proposed legislation at the earliest practicable date. The office shall report to the governor and the legislature on probable, imminent, and existing energy

shortages, and shall administer energy allocation and curtailment programs in accordance with chapter 43.21G RCW.

(2) The office shall establish and maintain a central repository in state government for collection of existing data on energy resources, including:

(a) Supply, demand, costs, utilization technology, projections, and forecasts;

(b) Comparative costs of alternative energy sources, uses, and applications; and

(c) Inventory data on energy research projects in the state conducted under public and/or private auspices, and the results thereof.

(3) The office shall coordinate federal energy programs appropriate for state-level implementation, carry out such energy programs as are assigned to it by the governor or the legislature, and monitor federally funded local energy programs as required by federal or state regulations.

(4) The office shall develop energy policy recommendations for consideration by the governor and the legislature.

(5) The office shall provide assistance, space, and other support as may be necessary for the activities of the state's two representatives to the Pacific northwest electric power and conservation planning council. To the extent consistent with federal law, the office shall request that Washington's council members request the administrator of the Bonneville power administration to reimburse the state for the expenses associated with the support as provided in the Pacific northwest electric power planning and conservation act (P.L. 96-501).

(6) The office shall cooperate with state agencies, other governmental units, and private interests on energy matters.

(7) The office shall represent the interests of the state in the siting, construction, and operation of nuclear waste storage and disposal facilities.

(8) The office shall serve as the official state agency responsible for coordination of energy-related activities.

(9) No later than December 1, 1982, and by December 1st of each even-numbered year thereafter, the office shall prepare and transmit to the governor and the legislature a report on energy supply and demand, conservation, and other factors including but not limited to:

(a) An overview of the anticipated energy situation in the state and region.

(b) An assessment of the energy resources available to the state.

(c) A comparison of the costs of available methods to supply and conserve energy.

(d) Identification of barriers and constraints to the rapid achievement of conservation and energy resource development, together with proposals for eliminating or reducing the barriers and constraints. The identification shall include but is not limited to statutes and federal, state, or local governmental regulations applicable to the state of Washington.

(e) A summary of the major energy conservation and resource development programs underway in the state.

(f) An analysis of the means by which the projected annual rate of energy demand growth may be reduced together with an estimate of the amount of reduction to be obtained by each of the means analyzed, and the cost of each option.

(10) The office shall provide support for increasing cost-effective energy conservation, including assisting in the removal of impediments to timely implementation.

(11) The office shall provide support for the development of cost-effective energy resources including assisting in the removal of impediments to timely construction.

(12) The office shall adopt rules, under chapter 34.04 RCW, necessary to carry out the powers and duties enumerated in this chapter.

NEW SECTION. Sec. 5. The office shall not intervene in any regulatory proceeding before the Washington utilities and transportation commission or proceedings of utilities not regulated by the commission. Nothing in this chapter abrogates or diminishes the functions, powers, or duties of the energy facility site evaluation council pursuant to chapter 80.50 RCW, the utilities and transportation commission pursuant to Title 80 RCW, or other state or local agencies established by law.

The office shall avoid duplication of activity with other state agencies and officers and other persons.

Sec. 6. Section 6, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 43.21F.060 are each amended to read as follows:

In addition to the duties prescribed in (~~RCW 43.21F.050~~) section 4 of this 1981 act, the energy office shall have the authority to:

(1) Obtain all necessary and existing information from energy producers, suppliers, and consumers, doing business within the state of Washington, from political subdivisions in this state, or any person as may be necessary to carry out the provisions of this chapter: PROVIDED, That if the information is available in reports made to another state agency, the office shall obtain it from that agency: PROVIDED FURTHER, That, to the maximum extent practicable, informational requests to energy companies regulated by the utilities and transportation commission shall be channeled through the commission and shall be accepted in the format normally used by the companies. Such information may include but not be limited to:

- (a) Sales volume;
- (b) Forecasts of energy requirements; and
- (c) (~~Inventory of~~) Energy costs.

Notwithstanding any other provision of law to the contrary, information furnished under this subsection shall be confidential and maintained as such, if so requested by the person providing the information, if the information is proprietary.

It shall be unlawful to disclose such information except as hereinafter provided. A violation shall be punishable, upon conviction, by a fine of not more than one thousand dollars for each offense. In addition, any person who wilfully or with criminal negligence, as defined in RCW 9A.08.010, discloses confidential information in violation of this subsection may be subject to removal from office or immediate dismissal from public employment notwithstanding any other provision of law to the contrary.

Nothing in this subsection prohibits the use of confidential information to prepare statistics or other general data for publication when it is so presented as to prevent identification of particular persons or sources of confidential information.

(2) Receive and expend funds obtained from the federal government or other sources by means of contracts, grants, awards, payments for services, and other devices in support of ~~((energy-related scientific and technical programs, studies, operations, and other activities beneficial to the state of Washington: PROVIDED, That expenditures of such funds shall be subject to prior approval by the legislative budget committee))~~ the duties enumerated in this chapter.

NEW SECTION. Sec. 7. To aid and advise the director in the performance of the duties under this chapter, an advisory council shall be appointed by the governor. The council shall be composed of not more than nine voting members, all of whom shall be residents of this state, representing such geographical areas and energy supply and consumption sectors as the governor shall determine will best further the purposes of this chapter. Terms of council members shall not exceed two years and shall continue until their successors are appointed. Vacancies shall be filled in the same manner as original appointments. Members may be reappointed. Members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060, as now existing or hereafter amended.

In addition, there shall be four nonvoting members from the legislature consisting of: (1) Two members of the senate, both to be appointed by the president of the senate, and not more than one to be affiliated with any one political party; and (2) two members of the house of representatives, both to be appointed by the speaker of the house of representatives, and not more than one to be affiliated with any one political party. The appointments shall be for the term of two years or for the period in which the appointee serves as a legislator, whichever expires first. Members may be reappointed. Vacancies shall be filled in the same manner as original appointments are made. The nonvoting members shall collect data considered essential to future legislative proposals and exchange information with the council. The nonvoting members shall be considered engaged in legislative business while in attendance upon the business of the council and shall be limited to such allowances therefor as otherwise provided in RCW 44.04.120.

The council shall select one of its members to serve as chairman at the pleasure of the council. Five voting members constitute a quorum for conducting business. All actions or recommendations of the council require the affirmative vote of a majority of the council membership.

NEW SECTION. Sec. 8. In addition to the duties and functions assigned by section 4 of this act and RCW 43.21F.060, the director shall:

(1) Manage, plan, direct, and administer the activities and staff of the office;

(2) Assign, reassign, and coordinate personnel of the office and prescribe their duties subject to chapter 41.06 RCW; and

(3) Provide staff support to the energy advisory council.

NEW SECTION. Sec. 9. The Washington state energy office and its powers and duties shall terminate on June 30, 1987, unless extended by law.

NEW SECTION. Sec. 10. There is added to chapter 41.06 RCW a new section to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply within the state energy office to the director, one confidential secretary, and up to seven professional staff members.

Sec. 11. Section 15, chapter 108, Laws of 1975-'76 2nd ex. sess. as amended by section 1, chapter 328, Laws of 1977 ex. sess. and RCW 43.21G.010 are each amended to read as follows:

The legislature finds that energy in various forms is increasingly subject to possible shortages and supply disruptions, to the point that there may be foreseen an emergency situation, and that without the ability to institute appropriate emergency measures to regulate the production, distribution, and use of energy, a severe impact on the public health, safety, and general welfare of our state's citizens may occur. The prevention or mitigation of such energy shortages or disruptions and their effects is necessary for preservation of the public health, safety, and general welfare of the citizens of this state.

It is the intent of this chapter to:

(1) Establish necessary emergency powers for the governor and define the situations under which such powers are to be exercised;

(2) Provide penalties for violations of this chapter.

It is further the intent of the legislature that in developing proposed orders under the powers granted in RCW 43.21G.040 as now or hereafter amended the governor may utilize, on a temporary or ad hoc basis, the knowledge and expertise of persons experienced in the technical aspects of energy supply, distribution, or use. Such utilization shall be in addition to support received by the governor from the state energy office under (~~RCW 43.21F.050 and 43.21F.070~~) sections 4 and 8 of this 1981 act and from other state agencies.

NEW SECTION. Sec. 12. The director shall, in addition to the powers and duties otherwise imposed by law, have the following special powers and duties:

(1) To fulfill the responsibilities of the state under the lease between the state of Washington and the federal government executed September 10, 1964, covering one thousand acres of land lying within the Hanford reservation near Richland, Washington. The office may sublease to private or public entities all or a portion of the land for specific purposes or activities which are determined, after public hearing, to be in consonance with the terms of the lease and in the best interests of the citizens of the state;

(2) To assume the responsibilities of the state under the perpetual care agreement between the state of Washington and the federal government executed July 29, 1965. In order to finance perpetual surveillance and maintenance under the agreement, the office shall impose and collect fees from parties holding radioactive materials for waste management purposes. The fees shall be established by rule adopted under chapter 34.04 RCW and shall be at a total charge of not less than the prevailing rates at similar sites in the nation or the amount determined by the state radiation control agency to be necessary to defray the estimated liability of the state, whichever is greater. All such fees, when received by the energy office, shall be transmitted to the state treasurer, who shall act as custodian. The treasurer shall place the money in a special account which may be designated the "perpetual maintenance account." Appropriations are required to permit expenditures and payment of obligations from this account, and the condition of the account and its administration shall be reported biennially to the legislature by the director. Moneys in the perpetual maintenance account shall be invested by the state investment board in the same manner as other state moneys. Any interest accruing as a result of investment shall accrue to the perpetual maintenance account. Additional moneys specifically appropriated by the legislature or received from any public or private source may be placed in the perpetual maintenance account. The perpetual maintenance account shall be used exclusively for surveillance and maintenance costs, or for otherwise satisfying surveillance and maintenance obligations; and

(3) To assure maintenance of such insurance coverage by state licensees, lessees, or sublessees as will adequately, in the opinion of the director and the state radiation control agency, protect the citizens of the state against nuclear accidents or incidents that may occur on privately or state-controlled nuclear facilities.

Sec. 13. Section 43.31.040, chapter 8, Laws of 1965 as last amended by section 6, chapter 70, Laws of 1977 ex. sess. and RCW 43.31.040 are each amended to read as follows:

The department of commerce and economic development shall be organized into divisions, including (1) the industrial development division, (2) the tourist promotion division, (3) the research division, (4) ~~((the nuclear~~

~~energy development division, to be known as the "office of nuclear energy development,"~~ ~~(5))~~ the foreign trade division, to be known as the "office of foreign trade," ~~((6))~~ (5) the small business division, to be known as the "office of small business," and others as required.

The director of commerce and economic development may appoint such division supervisors, managers, or executive directors, and clerical supervisors and other assistants as may be necessary for the general administration of the department.

Sec. 14. Section 5, chapter 161, Laws of 1980 and RCW 43.96C.050 are each amended to read as follows:

The department of commerce and economic development (~~and the state energy office~~), as well as all other interested departments and agencies, shall cooperate with the energy fair commission for the fair to become a memorable success. The energy fair commission and all other state departments and agencies shall cooperate in all respects with Benton and Franklin counties and with other departments, agencies, and political subdivisions of this state.

**Sec. 15. Section 3, chapter 45, Laws of 1970 ex. sess. as last amended by section 3, chapter 371, Laws of 1977 ex. sess. and RCW 80.50.030 are each amended to read as follows:*

(1) There is hereby created and established the "energy facility site evaluation council".

(2) The chairman of the council shall be appointed by the governor with the advice and consent of the senate, shall have a vote on matters before the council, shall serve for a term coextensive with the term of the governor and shall be removable for cause. The chairman may designate a member of the council to serve as acting chairman in the event of the chairman's absence. The salary of the chairman shall be determined pursuant to the provisions of RCW 43.03.040. The chairman shall be deemed a "state employee" for the purposes of chapter 42.18 RCW.

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

- (a) Department of ecology*
- (b) Department of fisheries*
- (c) Department of game*
- (d) Department of parks and recreation*
- (e) Department of social and health services*
- (f) ~~(State energy office~~*
- (g)) Department of commerce and economic development*
- ~~((h))~~ (g) Utilities and transportation commission*
- ~~((i))~~ (h) Office of ~~(program planning and fiscal)~~ financial management*
- ~~((j))~~ (i) Department of natural resources*
- ~~((k))~~ (j) Planning and community affairs agency*

~~((#))~~ **(k) Department of emergency services**

~~((m))~~ **(l) Department of agriculture**

~~((n))~~ **(m) Department of highways.**

(4) The appropriate county legislative authority of every county wherein an application for a proposed site is filed shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the county which he represents and such member or designee shall serve until there has been a final acceptance or rejection of such proposed site;

(5) The city legislative authority of every city within whose corporate limits an energy plant is proposed to be located shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the city which he represents and such member or designee shall serve until there has been a final acceptance or rejection of such proposed site.

(6) For any port district wherein an application for a proposed port facility is filed subject to this chapter, the port district shall appoint a member or designee as a nonvoting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the port district which he represents and such member or designee shall serve until there has been a final acceptance or rejection of such proposed site. The provisions of this subsection shall not apply if the port district is the applicant, either singly or in partnership or association with any other person.

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

NEW SECTION. Sec. 16. The following acts or parts of acts are each repealed:

(1) Section 10, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 41.06.078;

(2) Section 2, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 43.21F.020;

(3) Section 3, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 43.21F.030;

(4) Section 4, chapter 108, Laws of 1975-'76 2nd ex. sess., section 87, chapter 99, Laws of 1979 and RCW 43.21F.040;

(5) Section 5, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 43.21F.050;

(6) Section 7, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 43.21F.070;

(7) Section 1, chapter 10, Laws of 1965 and RCW 43.31.280;

(8) Section 3, chapter 10, Laws of 1965 and RCW 43.31.290;

(9) Section 5, chapter 10, Laws of 1965, section 11, chapter 108, Laws of 1975-'76 2nd ex. sess., section 35, chapter 3, Laws of 1981 and RCW 43.31.300;

(10) Section 8, chapter 10, Laws of 1965 and RCW 43.31.310;

(11) Section 9, chapter 10, Laws of 1965 and RCW 43.31.320;

(12) Section 7, chapter 10, Laws of 1965 and RCW 43.31.330;

(13) Section 16, chapter 99, Laws of 1979 and RCW 43.131.179;

(14) Section 58, chapter 99, Laws of 1979 and RCW 43.131.180; and

(15) Section 4, chapter 207, Laws of 1961, section 4, chapter 10, Laws of 1965 and RCW 70.98.040.

NEW SECTION. Sec. 17. Sections 1 through 5, 7 through 9, and 12 of this act are each added to chapter 43.21F RCW.

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.

Passed the Senate April 24, 1981.

Passed the House April 15, 1981.

Approved by the Governor May 18, 1981, with the exception of Section 15, which is vetoed.

Filed in Office of Secretary of State May 18, 1981.

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

"I am returning herewith without my approval as to one section Substitute Senate Bill No. 4085 entitled:

"AN ACT Relating to the energy office."

Section 15 would delete the Energy Office from membership on the Energy Facility Site Evaluation Council (EFSEC). To the extent that the Energy Office can provide its expertise and viewpoint on EFSEC it should do so.

I have therefore vetoed Section 15. The remainder of the bill is approved."

CHAPTER 296

[Engrossed Senate Bill No. 3355]

AGRICULTURAL ACTIVITIES

AN ACT Relating to activities regulated by the state department of agriculture or the director thereof; amending section 15.04.020, chapter 11, Laws of 1961 as amended by section 7, chapter 75, Laws of 1977 and RCW 15.04.020; amending section 15.04.030, chapter 11, Laws of 1961 and RCW 15.04.030; amending section 15.04.070, chapter 11, Laws of 1961 and RCW 15.04.070; amending section 15.08.010, chapter 11, Laws of 1961 and RCW 15.08.010; amending section 2, chapter 27, Laws of 1965 and RCW 15.08.025; amending section 15.08.230, chapter 11, Laws of 1961 and RCW 15.08.230; amending section 15.60.030, chapter 11, Laws of 1961 as last amended by section 3, chapter 362, Laws of 1977 ex. sess. and RCW 15.60.030; amending section 15.60.040, chapter 11, Laws of 1961 as amended by section 4, chapter 362, Laws of 1977 ex. sess. and RCW 15.60.040; amending section 9, chapter 362, Laws of 1977 ex. sess. and RCW 15.60.043; amending section 15.60.100, chapter 11, Laws of 1961 as amended by section 7, chapter 362, Laws of 1977 ex. sess. and RCW 15.60.100; amending section 15.60.120, chapter 11,