

(3) Section 5, chapter 260, Laws of 1977 ex. sess. and RCW 74.09.590; and

(4) Section 83, chapter 177, Laws of 1980 and RCW 74.46.830.

NEW SECTION. Sec. 27. 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. Sections 1, 2, 3, and 10 through 26 of this act shall take effect on July 1, 1981. Section 4 of this act shall take effect on July 1, 1983. Sections 5 through 9 of this act shall take effect on July 1, 1984.

NEW SECTION. Sec. 28. 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 Senate April 28, 1981.

Passed the House April 28, 1981.

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CHAPTER 3

[Second Reengrossed Substitute Senate Bill No. 3797]

JOINT OPERATING AGENCIES, NUCLEAR POWER PLANTS—EXECUTIVE BOARD

AN ACT Relating to operating agencies; amending section 43.52.370, chapter 8, Laws of 1965 as amended by section 7, chapter 184, Laws of 1977 ex. sess. and RCW 43.52.370; amending section 43.52.375, chapter 8, Laws of 1965 and RCW 43.52.375; amending section 1, chapter 220, Laws of 1979 ex. sess. and RCW 43.52.378; and adding new sections to chapter 43.52 RCW.

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

Section 1. Section 43.52.370, chapter 8, Laws of 1965 as amended by section 7, chapter 184, Laws of 1977 ex. sess. and RCW 43.52.370 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the management and control of an operating agency shall be vested in a board of directors, herein sometimes referred to as the board. The legislative body of each member of an operating agency shall appoint a representative who may, at the discretion of the member and regardless of any charter or other provision to the contrary, be an officer or employee of the member, to serve on the board of the operating agency. Each representative shall have one vote and shall have, in addition thereto, one vote for each block of electric energy equal to ten percent of the total energy generated by the agency during the preceding year purchased by the member represented by such representative. Each member may appoint an alternative representative to serve in the absence or disability of its representative. Each representative shall

serve at the pleasure of the member. The board of an operating agency shall elect from its members a president, vice president and secretary, who shall serve at the pleasure of the board. The president and secretary shall perform the same duties with respect to the operating agency as are provided by law for the president and secretary, respectively, of public utility districts, and such other duties as may be provided by motion, rule or resolution of the board. The board of an operating agency shall adopt rules for the conduct of its meetings and the carrying out of its business, and adopt an official seal. All proceedings of an operating agency shall be by motion or resolution and shall be recorded in the minute book which shall be a public record. A majority of the board members shall constitute a quorum for the transaction of business. A majority of the votes which the members present are entitled to cast shall be necessary and sufficient to pass any motion or resolution: **PROVIDED**, That such board members are entitled to cast a majority of the votes of all members of the board. The members of the board of an operating agency may be compensated by such agency as is provided in RCW 43.52.290: **PROVIDED**, That the per diem compensation to any member shall not exceed five thousand dollars in any year except for board members who are elected to serve on an executive board established under section 2 of this 1981 act, in which case per diem compensation to any member shall not exceed ten thousand dollars in any year.

(2) If an operating agency is constructing a nuclear power plant under a site certification agreement under chapter 80.50 RCW, the powers and duties of the board of directors are limited to the following:

(a) Final authority on any decision of the operating agency to purchase, acquire, construct, or sell any power plants, works, and facilities;

(b) Acceptance or rejection of bids or offers for bonds and the sale and issuance of bonds: **PROVIDED**, That the board may delegate this authority to the executive board;

(c) Appointment of a treasurer under RCW 43.52.375;

(d) Election of members to the executive board under section 2 of this 1981 act;

(e) Approve annual budgets submitted by the executive board; and

(f) Select, appoint, and establish the compensation of the outside directors as provided in section 2 of this 1981 act.

All other powers and duties of the operating agency are vested in the executive board established under section 2 of this 1981 act.

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

(1) With the exception of the powers and duties of the board of directors described in RCW 43.52.370(2), the management and control of an operating agency constructing a nuclear power plant under a site certification agreement under chapter 80.50 RCW is vested in an executive board established under this subsection and consisting of eleven members.

(a) Seven members of the executive board shall be elected to four-year terms by the board of directors from among the members of the board of directors. The board of directors may provide by rule for the composition of the seven members of the executive board elected from among the members of the board of directors so as to afford fair representation which reflects the member public utility districts' and cities' participation in the joint operating agency's projects. The board of directors may also provide by rule for the removal of a member of the executive board, including the outside directors. Members of the board of directors may be elected to serve successive terms on the executive board.

(b) Four members of the executive board shall be outside directors and shall be selected and appointed by the board of directors. The outside directors shall:

(i) Serve four-year terms on the executive board. However, of the initial members of the executive board, the board of directors shall choose by lot two outside directors to serve two-year terms and two to serve four-year terms. Thereafter, all outside directors shall be appointed for four-year terms. All outside directors are eligible for reappointment;

(ii) Receive per diem compensation and travel expenses on the same basis as the seven members elected from the board of directors. The outside directors may be paid additional compensation as established by the board of directors;

(iii) Not be an officer or employee of, or in any way affiliated with, the Bonneville power administration or any electric utility conducting business in the states of Washington, Oregon, Idaho, or Montana;

(iv) Not be involved in the financial affairs of the operating agency as an underwriter or financial adviser of the operating agency or any of its members or any of the participants in any of the operating agency's plants; and

(v) Be representative of policy makers in business, finance, or science or be recognized experts in the construction or management of such facilities as the operating agency is constructing or operating.

(c) The president of the board of directors shall be a nonvoting member of the executive board and shall serve as the presiding officer of the executive board.

(2) Nothing in this chapter shall be construed to mean that an operating agency is in any manner an agency of the state.

(3) The eleven members of the executive board shall be selected with the objective of establishing an executive board which has the resources to effectively carry out its responsibilities. To the extent reasonably possible, the membership and operation of the executive board should be patterned after boards of directors of large private corporations.

(4) The executive board shall adopt rules for the conduct of its meetings and the carrying out of its business. All proceedings shall be by motion or

resolution and shall be recorded in the minute book, which shall be a public record.

(5) With respect to any operating agency existing on the effective date of this act to which the provisions of this section are applicable:

(a) The board of directors shall elect seven members to the executive board no later than sixty days after the effective date of this act; and

(b) The board of directors shall select and appoint the initial outside directors and the executive board shall hold its organizational meeting no later than ninety days after the effective date of this act and the powers and duties prescribed in RCW 43.52.375, 43.52.378, and this section shall devolve upon the executive board at that time.

(6) The executive board shall select and employ a managing director of the operating agency and may delegate to the managing director such authority for the management and control of the operating agency as the executive board deems appropriate. The managing director's employment is terminable at the will of the executive board.

(7) Any executive board created under this section shall cease to function upon the initiation of regular operations of the nuclear power plant over which it has exercised construction management powers and duties. If the operating agency is constructing two or more nuclear power plants simultaneously, the executive board shall cease exercising all powers as to each plant as it becomes operational.

Sec. 3. Section 43.52.375, chapter 8, Laws of 1965 and RCW 43.52.375 are each amended to read as follows:

The board of each joint operating agency shall by resolution appoint a treasurer. If the joint operating agency is constructing a nuclear power plant under a site certification agreement under chapter 80.50 RCW, the appointment of the treasurer shall be on the recommendation of the executive board established under section 2 of this 1981 act. Before entering upon his duties the treasurer shall give bond to the operating agency, with a surety company authorized to write such bonds in this state as surety, in an amount which the board finds by resolution will protect the operating agency against loss, conditioned that all funds which he receives as such treasurer will be faithfully kept and accounted for and for the faithful discharge of his duties. The amount of such bond may be decreased or increased from time to time as the board may by resolution direct. The board shall also appoint an auditor and may require him to give a bond with a surety company authorized to do business in the state of Washington in such amount as it shall by resolution prescribe, conditioned for the faithful discharge of his duties. If the joint operating agency is constructing a nuclear power plant under a site certification agreement under chapter 80.50 RCW, the auditor shall be appointed by the executive board. The premiums on the

bonds of the auditor and the treasurer shall be paid by the operating agency. The board may provide for coverage of said officers and other persons on the same bond.

All funds of the joint operating agency shall be paid to the treasurer and shall be disbursed by him only on warrants issued by the auditor upon orders or vouchers approved by the board: PROVIDED, That the board by resolution may authorize the executive committee or executive board to approve or disapprove vouchers presented to defray salaries of employees and other expenses of the operating agency arising in the usual and ordinary course of its business and expenses incurred by the executive committee or executive board in the performance of such duties as the operating agency may authorize it to perform. All moneys of the operating agency shall be deposited forthwith by the treasurer in such depositories, and with such securities as are designated by rules of the board. The treasurer shall establish a general fund and such special funds as shall be created by the board, into which he shall place all money of the joint operating agency as the board by resolution or motion may direct.

Sec. 4. Section 1, chapter 220, Laws of 1979 ex. sess. and RCW 43.52-.378 are each amended to read as follows:

The executive board (~~(of directors)~~) of any operating agency constructing (~~(or operating a thermal)~~) a nuclear 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 executive board shall retain a qualified firm or firms to conduct performance audits, including such engineering expertise as the executive 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 executive board (~~(of directors)~~) of the operating agency. The executive 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 executive board. The executive 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 executive 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 executive 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 executive board and furnish any information or data to the executive board which the administrative auditor, firm, or executive board deems helpful in accomplishing the purpose above stated. The administrative auditor shall perform such other duties as the executive 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 executive 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. 5. There is added to chapter 43.52 RCW a new section to read as follows:

Upon the concurrent request of the chairmen of the committees on energy and utilities of the senate and house of representatives, the executive board shall report to the committees on a semi-annual basis. The purpose will be to furnish reports on project schedules, budgets, progress, and other matters deemed relevant by the committees.

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CHAPTER 4

[ENGROSSED SUBSTITUTE SENATE BILL NO. 3972]

JOINT OPERATING AGENCIES—NUCLEAR PROJECT STUDY— APPROPRIATION

AN ACT Relating to joint operating agencies; creating new sections: making an appropriation; and declaring an emergency.

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