

(1) The department shall (~~annually, starting July 1, 1973;~~) compile a list of all contractors registered (~~pursuant to the provisions of~~) under this chapter and update ((such)) the list at least bimonthly. ((Such)) The list shall be considered as public record information and shall be available to the public upon request: PROVIDED, That the department may charge a reasonable ((reproduction)) fee under RCW 42.17.300.

(2) The department shall inform any person, firm, or corporation, if a contractor is registered, and if a contractor is bonded or insured, without charge except for a reasonable fee under RCW 42.17.300 for copies made.

Sec. 21. Section 2, chapter 161, Laws of 1973 1st ex. sess. and RCW 18.27.140 are each amended to read as follows:

It is the purpose of this chapter to afford protection to the public including all persons, firms, and corporations furnishing labor, materials, or equipment to a contractor from unreliable, fraudulent, financially irresponsible, or incompetent contractors.

NEW SECTION. Sec. 22. Section 6, chapter 126, Laws of 1967 and RCW 18.27.085 are each hereby repealed.

NEW SECTION. Sec. 23. Sections 1 through 16 of this act are added to chapter 18.27 RCW.

NEW SECTION. Sec. 24. Sections 1 through 17 of this of this act shall take effect January 1, 1984.

Passed the Senate April 26, 1983.

Passed the House April 28, 1983.

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Filed in Office of Secretary of State May 6, 1983.

## CHAPTER 3

[Engrossed Substitute Senate Bill No. 3266]

### JOINT OPERATING AGENCIES—COMPENSATION—OPEN PUBLIC MEETINGS ACT COMPLIANCE

AN ACT Relating to operating agencies; amending section 43.52.290, chapter 8, Laws of 1965 as last amended by section 5, chapter 43, Laws of 1982 1st ex. sess. and RCW 43.52.290; amending section 43.52.370, chapter 8, Laws of 1965 as last amended by section 2, chapter 43, Laws of 1982 1st ex. sess. and RCW 43.52.370; and amending section 2, chapter 3, Laws of 1981 1st ex. sess. as amended by section 3, chapter 43, Laws of 1982 1st ex. sess. and RCW 43.52.374; and adding a new section to chapter 43.52 RCW.

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

Sec. 1. Section 43.52.290, chapter 8, Laws of 1965 as last amended by section 5, chapter 43, Laws of 1982 1st ex. sess. and RCW 43.52.290 are each amended to read as follows:

Members of the board of directors of an operating agency shall be paid the sum of fifty dollars per day as compensation for each day or major part thereof devoted to the business of the operating agency, together with their

traveling and other necessary expenses. Such member may, regardless of any charter or other provision to the contrary, be an officer or employee holding another public position and, if he be such other public officer or employee, he shall be paid by the operating agency such amount as will, together with the compensation for such other public position equal the sum of fifty dollars per day. The common law doctrine of incompatibility of offices is hereby voided as it applies to persons sitting on the board of directors or the executive board of an operating agency and holding an elective or appointive position on a public utility district commission or municipal legislative authority or being an employee of a public utility district or municipality.

Sec. 2. Section 43.52.370, chapter 8, Laws of 1965 as last amended by section 2, chapter 43, Laws of 1982 1st 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 RCW 43.52.374(~~(; 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, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement under chapter 80.50 RCW, the powers and duties of the board of directors shall include and are limited to the following:

(a) Final authority on any decision of the operating agency to purchase, acquire, construct, terminate, or decommission any power plants, works, and facilities except that once the board of directors has made a final decision regarding a nuclear power plant, the executive board established under RCW 43.52.374 shall have the authority to make all subsequent decisions regarding the plant and any of its components;

(b) Election of members to (~~and~~), removal from, and establishment of salaries for the elected members of the executive board under RCW 43.52.374(1)(a); and

(c) Selection and appointment of three outside directors as provided in RCW 43.52.374(1)(b).

All other powers and duties of the operating agency, including without limitation authority for all actions subsequent to final decisions by the board of directors, including but not limited to the authority to sell any power plant, works, and facilities are vested in the executive board established under RCW 43.52.374.

Sec. 3. Section 2, chapter 3, Laws of 1981 1st ex. sess. as amended by section 3, chapter 43, Laws of 1982 1st ex. sess. and RCW 43.52.374 are each amended 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, operating, terminating, or decommissioning 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) Five 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 five members of the executive board elected from among the members of the board of directors so as to reflect the member public utility districts' and cities' participation in the joint operating agency's projects. Members elected to the executive board from the board of directors are ineligible for continued membership on the executive board if they cease to be members of the board of directors. The board of directors may also provide by rule for the removal of a member of the executive board, except for the outside

directors. Members of the board of directors may be elected to serve successive terms on the executive board. Members elected to the executive board from the board of directors shall receive a salary from the operating agency at a rate set by the board of directors.

(b) Six members of the executive board shall be outside directors. Three shall be selected and appointed by the board of directors, and three shall be selected and appointed by the governor and confirmed by the senate. All 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 and the governor shall each appoint one outside director to serve a two-year term, one outside director to serve a three-year term, and one outside director to serve a four-year term. 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 five members elected from the board of directors. The outside directors shall also receive a salary from the operating agency as fixed by the governor;

(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 have expertise in the construction or management of such facilities as the operating agency is constructing or operating, or have expertise in the termination, disposition, or liquidation of corporate assets.

(c) The governor may remove outside directors from the executive board for incompetency, misconduct, or malfeasance in office in the same manner as state appointive officers under chapter 43.06 RCW. For purposes of this subsection, misconduct shall include, but not be limited to, nonfeasance and misfeasance.

(2) Nothing in this chapter shall be construed to mean that an operating agency is in any manner an agency of the state. Nothing in this chapter alters or destroys the status of an operating agency as a separate municipal corporation or makes the state liable in any way or to any extent for any preexisting or future debt of the operating agency or any present or future claim against the agency.

(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. All members of the executive board shall conduct their business in a manner which in their judgment is in the

interest of all ratepayers affected by the joint operating agency and its projects.

(4) The executive board shall elect from its members a chairman, vice chairman, and secretary, who shall serve at the pleasure of the executive board. 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. A majority of the executive board shall constitute a quorum for the transaction of business.

(5) With respect to any operating agency existing on April 20, 1982, to which the provisions of this section are applicable:

(a) The board of directors shall elect five members to the executive board no later than sixty days after April 20, 1982; and

(b) The board of directors and the governor shall select and appoint the initial outside directors and the executive board shall hold its organizational meeting no later than sixty days after April 20, 1982, and the powers and duties prescribed in this chapter 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) Members of the executive board shall be immune from civil liability for mistakes and errors of judgment in the good faith performance of acts within the scope of their official duties involving the exercise of judgment and discretion. This grant of immunity shall not be construed as modifying the liability of the operating agency.

The operating agency shall undertake the defense of and indemnify each executive board member made a party to any civil proceeding including any threatened, pending, or completed action, suit, or proceeding, whether civil, administrative, or investigative, by reason of the fact he or she is or was a member of the executive board, against judgments, penalties, fines, settlements, and reasonable expenses, actually incurred by him or her in connection with such proceeding if he or she had conducted himself or herself in good faith and reasonably believed his or her conduct to be in the best interest of the operating agency.

In addition members of the executive board who are utility employees shall not be fired, forced to resign, or demoted from their utility jobs for decisions they make while carrying out their duties as members of the executive board involving the exercise of judgment and discretion.

NEW SECTION. Sec. 4. There is added to chapter 43.52 RCW a new section to read as follows:

(1) The legislature intends that the business and deliberations of joint operating agencies conducted by their boards of directors, executive boards, committees and subcommittees be conducted openly and with opportunity for public input.

(2) The board of directors, executive board, and all committees or subcommittees thereof shall comply with the provisions of chapter 42.30 RCW, in order to assure adequate public input and awareness of decisions.

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## CHAPTER 4

[Reengrossed Substitute Senate Bill No. 3856]

CRIMES—AIRCRAFT TAMPERING—MALICIOUS MISCHIEF—  
EXTORTION—SEXUAL FAVORS—BAIL JUMPING—CONTROLLED  
SUBSTANCES

AN ACT Relating to crimes; amending section 9A.48.070, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.48.070; amending section 10, chapter 38, Laws of 1975-'76 2nd ex. sess. and RCW 9A.56.110; amending section 9A.76.170, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.76.170; amending section 7, chapter 186, Laws of 1973 1st ex. sess. and RCW 69.41.070; and amending section 4, chapter 171, Laws of 1982 and RCW 69.52.030.

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

Sec. 1. Section 9A.48.070, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.48.070 are each amended to read as follows:

(1) A person is guilty of malicious mischief in the first degree if he knowingly and maliciously:

(a) Causes physical damage to the property of another in an amount exceeding one thousand five hundred dollars; ((or))

(b) Causes an interruption or impairment of service rendered to the public by physically damaging or tampering with an emergency vehicle or property of the state, a political subdivision thereof, or a public utility or mode of public transportation, power, or communication; or

(c) Causes an impairment of the safety, efficiency, or operation of an aircraft by physically damaging or tampering with the aircraft or aircraft equipment, fuel, lubricant, or parts.

(2) Malicious mischief in the first degree is a class B felony.

Sec. 2. Section 10, chapter 38, Laws of 1975-'76 2nd ex. sess. and RCW 9A.56.110 are each amended to read as follows:

"Extortion" means knowingly to obtain or attempt to obtain by threat property or services of the owner, as defined in RCW 9A.56.010(8) and specifically includes sexual favors.