

NEW SECTION. Sec. 11. If no agreement can be reached under section 10 of this act, the commission may refer the matter to the administrative law judge for hearing pursuant to RCW 49.60.250. If the administrative law judge finds that the state agency, institution of higher education, or state patrol has not made a good faith effort to correct the noncompliance, the administrative law judge shall order the state agency, institution of higher education, or state patrol to comply with this chapter. The administrative law judge may order any action that may be necessary to achieve compliance, provided such action is not inconsistent with the rules adopted under sections 1(20), 5(21), and 6(5) of this act, whichever is appropriate.

An order by the administrative law judge may be appealed to superior court.

NEW SECTION. Sec. 12. If the superior court finds that the state agency, institution of higher education, or state patrol has not made a good faith effort to correct the noncompliance, the court, in addition to any other penalties and sanctions prescribed by law, shall order the state agency, institution of higher education, or state patrol to comply with this chapter. The court may require any action deemed appropriate by the court which is consistent with the intent of this chapter.

NEW SECTION. Sec. 13. Sections 7 through 12 of this act shall constitute a new chapter in Title 49 RCW.

Passed the Senate April 23, 1985.

Passed the House April 19, 1985.

Approved by the Governor May 20, 1985.

Filed in Office of Secretary of State May 20, 1985.

CHAPTER 366

[Substitute Senate Bill No. 3386]

PUBLIC AGENCY GOVERNING BODIES—EXECUTIVE SESSIONS

AN ACT Relating to executive sessions of governing bodies; and amending RCW 42.30-.020 and 42.30.110.

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

Sec. 1. Section 2, chapter 250, Laws of 1971 ex. sess. as last amended by section 1, chapter 155, Laws of 1983 and RCW 42.30.020 are each amended to read as follows:

As used in this chapter unless the context indicates otherwise:

(1) "Public agency" means:

(a) Any state board, commission, committee, department, educational institution, or other state agency which is created by or pursuant to statute, other than courts and the legislature;

(b) Any county, city, school district, special purpose district, or other municipal corporation or political subdivision of the state of Washington;

(c) Any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act, including but not limited to planning commissions, library or park boards, commissions, and agencies;

(d) Any policy group whose membership includes representatives of publicly owned utilities formed by or pursuant to the laws of this state when meeting together as or on behalf of participants who have contracted for the output of generating plants being planned or built by an operating agency.

(2) "Governing body" means the multimember board, commission, committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.

(3) "Action" means the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions. "Final action" means a collective ~~((decision made by a majority of the members of a governing body, a collective commitment or promise by a majority of the members of a governing body to make a))~~ positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.

(4) "Meeting" means meetings at which action is taken.

Sec. 2. Section 11, chapter 250, Laws of 1971 ex. sess. as last amended by section 3, chapter 155, Laws of 1983 and RCW 42.30.110 are each amended to read as follows:

(1) Nothing contained in this chapter ((shall)) may be construed to prevent a governing body from holding an executive session((s)) during a regular or special meeting:

(a) To consider matters affecting national security;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase((;)) when ((publicity)) public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the ((disposition of)) minimum price at which real estate ((by lease or)) will be offered for sale((;)) or lease when ((publicity)) public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To ((consider)) review negotiations on the performance of public-ly-bid contracts when ((publicity)) public knowledge regarding such consideration would cause a likelihood of increased costs; ((to consider the appointment, employment, or dismissal of a public officer or employee: PROVIDED, That interviewing of proposed appointees to elective office by a governing body shall not be conducted in executive session; or to hear

~~complaints or charges brought against such officer or employee by another public officer, person, or employee unless such officer or employee requests a public hearing. The governing body also may exclude from any such public meeting or executive session, during the examination of a witness on any such matter, any or all other witnesses in the matter being investigated by the governing body. If executive sessions are held to discuss the disposition by sale or lease of real estate, the discussion shall be limited to the minimum selling or leasing price:))~~

(e) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(f) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(g) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(h) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

Passed the Senate April 22, 1985.

Passed the House April 12, 1985.

Approved by the Governor May 20, 1985.

Filed in Office of Secretary of State May 20, 1985.