

CHAPTER 64

[Substitute House Bill No. 2609]

POLLUTION LIABILITY INSURANCE PROGRAM

AN ACT Relating to the Washington pollution liability insurance program; amending RCW 70.148.005, 70.148.010, 70.148.020, 70.148.030, 70.148.040, 70.148.050, 70.148.060, 70.148.070, 70.148.080, 70.148.090, and 82.23A.020; adding a new section to chapter 70.148 RCW; repealing RCW 70.148.100; and declaring an emergency.

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

Sec. 1. Section 1, chapter 383, Laws of 1989 and RCW 70.148.005 are each amended to read as follows:

(1) The legislature finds that:

(a) Final regulations adopted by the United States environmental protection agency (EPA) require owners and operators of underground petroleum storage tanks to demonstrate financial responsibility for accidental releases of petroleum as a precondition to continued ownership and operation of such tanks;

(b) Financial responsibility is demonstrated through the purchase of pollution liability insurance or an acceptable alternative such as coverage under a state financial responsibility program, in the amount of at least five hundred thousand dollars per occurrence and one million dollars annual aggregate depending upon the nature, use, and number of tanks owned or operated;

(c) Many owners and operators of underground petroleum storage tanks cannot purchase pollution liability insurance either because private insurance is unavailable at any price or because owners and operators cannot meet the rigid underwriting standards of existing insurers, nor can many owners and operators meet the strict regulatory standards imposed for alternatives to the purchase of insurance; and

(d) Without a state financial responsibility program for owners and operators of underground petroleum storage tanks, many tank owners and operators will be forced to discontinue the ownership and operation of these tanks.

(2) The purpose of this chapter is to create a state financial responsibility program meeting EPA standards for owners and operators of underground petroleum storage tanks in a manner that:

(a) Minimizes state involvement in pollution liability claims management and insurance administration;

(b) Protects the state of Washington from unwanted and unanticipated liability for accidental release claims;

(c) Creates incentives for private insurers to provide needed liability insurance; and

(d) Parallels generally accepted principles of insurance and risk management.

To that end, this chapter establishes a temporary program to provide pollution liability reinsurance at a price that will encourage a private insurance company or risk retention group to sell pollution liability insurance in accordance with the requirements of this chapter to owners and operators of underground petroleum storage tanks, thereby allowing the owners and operators to comply with the financial responsibility regulations of the EPA.

(3) It is not the intent of this chapter to permit owners and operators of underground petroleum storage tanks to obtain pollution liability insurance without regard to the quality or condition of their storage tanks or without regard to the risk management practices of tank owners and operators, nor is it the intent of this chapter to provide coverage or funding for past or existing petroleum releases. Further, it is the intent of the legislature that the program follow generally accepted insurance underwriting and actuarial principles and to deviate from those principles only to the extent necessary and within the tax revenue limits provided, to make pollution liability insurance reasonably affordable and available to owners and operators who meet the requirements of this chapter, particularly to those owners and operators whose underground storage tanks meet a vital economic need within the affected community.

Sec. 2. Section 2, chapter 383, Laws of 1989 and RCW 70.148.010 are each amended to read as follows:

Unless the context requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Accidental release" means any sudden or nonsudden release of petroleum arising from operating an underground storage tank that results in a need for corrective action, bodily injury, or property damage neither expected nor intended by the owner or operator.

(2) "~~((Administrator))~~ Director" means the Washington pollution liability ~~((reinsurance))~~ insurance program ~~((administrator))~~ director.

(3) "Bodily injury" means bodily injury, sickness, or disease sustained by any person, including death at any time resulting from the injury, sickness, or disease.

(4) "Corrective action" means those actions reasonably required to be undertaken by the insured to remove, treat, neutralize, contain, or clean up an accidental release in order to comply with any statute, ordinance, rule, regulation, directive, order, or similar legal requirement of the United States, the state of Washington, or any political subdivision of the United States or the state of Washington in effect at the time of an accidental release. "Corrective action" includes, when agreed to in writing, in advance by the insurer, action to remove, treat, neutralize, contain, or clean up an accidental release to avert, reduce, or eliminate the liability of the insured for corrective action, bodily injury, or property damage. "Corrective action"

also includes actions reasonably necessary to monitor, assess, and evaluate an accidental release.

"Corrective action" does not include:

- (a) Replacement or repair of storage tanks or other receptacles;
- (b) Replacement or repair of piping, connections, and valves of storage tanks or other receptacles;
- (c) Excavation or backfilling done in conjunction with (a) or (b) of this subsection; or
- (d) Testing for a suspected accidental release if the results of the testing indicate that there has been no accidental release.

(5) "Defense costs" include the costs of legal representation, expert fees, and related costs and expenses incurred in defending against claims or actions brought by or on behalf of:

- (a) The United States, the state of Washington, or any political subdivision of the United States or state of Washington to require corrective action or to recover costs of corrective action; or
- (b) A third party for bodily injury or property damage caused by an accidental release.

(6) "Washington pollution liability ((reinsurance)) insurance program" or "program" means the ((~~excess of loss~~)) reinsurance program created by this chapter.

(7) "Insured" means the owner or operator who is provided insurance coverage in accordance with this chapter.

(8) "Insurer" means the insurance company or risk retention group licensed or qualified to do business in Washington and authorized by the ((~~administrator~~)) director to provide insurance coverage in accordance with this chapter.

(9) "Loss reserve" means the amount traditionally set aside by commercial liability insurers for costs and expenses related to claims that have been made. "Loss reserve" does not include losses that have been incurred but not reported to the insurer.

(10) "Occurrence" means an accident, including continuous or repeated exposure to conditions, that results in a release from an underground storage tank.

((~~(10)~~)) (11) "Operator" means a person in control of, or having responsibility for, the daily operation of an underground storage tank.

((~~(11)~~)) (12) "Owner" means a person who owns an underground storage tank.

((~~(12)~~)) (13) "Person" means an individual, trust, firm, joint stock company, corporation (including government corporation), partnership, association, consortium, joint venture, commercial entity, state, municipality, commission, political subdivision of a state, interstate body, the federal government, or any department or agency of the federal government.

~~((+3))~~ (14) "Petroleum" means crude oil or any fraction of crude oil that is liquid at standard conditions of temperature and pressure, which means at sixty degrees Fahrenheit and 14.7 pounds per square inch absolute and includes gasoline, kerosene, heating oils, and diesel fuels.

~~((+4))~~ (15) "Property damage" means:

(a) Physical injury to, destruction of, or contamination of tangible property, including the loss of use of the property resulting from the injury, destruction, or contamination; or

(b) Loss of use of tangible property that has not been physically injured, destroyed, or contaminated but has been evacuated, withdrawn from use, or rendered inaccessible because of an accidental release.

~~((+5))~~ (16) "Release" means the emission, discharge, disposal, dispersal, seepage, or escape of petroleum from an underground storage tank into or upon land, ground water, surface water, subsurface soils, or the atmosphere.

(17) "Surplus reserve" means the amount traditionally set aside by commercial property and casualty insurance companies to provide financial protection from unexpected losses and to serve, in part, as a measure of an insurance company's net worth.

~~((+6))~~ (18) "Tank" means a stationary device, designed to contain an accumulation of petroleum, that is constructed primarily of nonearthen materials such as wood, concrete, steel, or plastic that provides structural support.

~~((+7))~~ (19) "Underground storage tank" means any one or a combination of tanks including underground pipes connected to the tank, that is used to contain an accumulation of petroleum and the volume of which (including the volume of the underground pipes connected to the tank) is ten percent or more beneath the surface of the ground.

Sec. 3. Section 3, chapter 383, Laws of 1989 and RCW 70.148.020 are each amended to read as follows:

(1) The pollution liability ((reinsurance)) insurance program trust account is established in the custody of the state treasurer. All funds appropriated for this chapter and all premiums collected for reinsurance shall be deposited in the account. Expenditures from the account shall be used exclusively for the purposes of this chapter including payment of costs of administering the program. The account is subject to allotment procedures under chapter 43.88 RCW. Expenditures for payment of the costs of administering the program may be made only after appropriation by statute. No appropriation is required for other expenditures from the account. The earnings on any surplus balances in the pollution liability ((reinsurance)) insurance program trust account shall be credited to the account notwithstanding RCW 43.84.090.

(2) Each calendar quarter, the director shall report to the insurance commissioner and the chairs of the senate ways and means, senate financial

institutions, house of representatives revenue, and house of representatives financial institutions committees, the loss and surplus reserves required for the calendar quarter. The director shall notify the department of revenue of this amount by the fifteenth day of each calendar quarter.

Sec. 4. Section 4, chapter 383, Laws of 1989 and RCW 70.148.030 are each amended to read as follows:

(1) The Washington pollution liability ((reinsurance)) insurance program is created as an independent agency of the state. The administrative head and appointing authority of the program shall be the ((administrator)) director who shall be appointed by the governor, with the consent of the senate, and shall serve at the pleasure of the governor. The salary for this office shall be set by the governor pursuant to RCW 43.03.040. The ((administrator)) director shall appoint ((an assistant administrator. The administrator, assistant administrator)) a deputy director. The director, deputy director, and up to three other employees are exempt from the civil service law, chapter 41.06 RCW.

(2) The ((administrator)) director shall employ such other staff as are necessary to fulfill the responsibilities and duties of the ((administrator)) director. The staff is subject to the civil service law, chapter 41.06 RCW. In addition, the ((administrator)) director may contract with third parties for services necessary to carry out its activities where this will promote economy, avoid duplication of effort, and make best use of available expertise. To the extent necessary to protect the state from unintended liability and ensure quality program and contract design, the director shall contract with an organization or organizations with demonstrated experience and ability in managing and designing pollution liability insurance and with an organization or organizations with demonstrated experience and ability in managing and designing pollution liability reinsurance. The director shall enter into such contracts after competitive bid but need not select the lowest bid. Any such contractor or consultant is prohibited from releasing, publishing, or otherwise using any information made available to it under its contractual responsibility without specific permission of the program ((administrator. The administrator)) director. The director may call upon other agencies of the state to provide technical support and available information as necessary to assist the ((administrator)) director in meeting the ((administrator's)) director's responsibilities under this chapter. Agencies shall supply this support and information as promptly as circumstances permit.

(3) The governor shall appoint a standing technical advisory committee that is representative of the public, the petroleum marketing industry, business and local government owners of underground storage tanks, and insurance professionals. Individuals appointed to the technical advisory committee shall serve at the pleasure of the governor and without compensation for their services as members, but may be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(4) A member of the technical advisory committee of the program is not civilly liable for any act or omission in the course and scope of his or her official capacity unless the act or omission constitutes gross negligence.

Sec. 5. Section 5, chapter 383, Laws of 1989 and RCW 70.148.040 are each amended to read as follows:

The ((administrator)) director may adopt rules consistent with this chapter to carry out the purposes of this chapter. All rules shall be adopted in accordance with chapter 34.05 RCW.

Sec. 6. Section 6, chapter 383, Laws of 1989 and RCW 70.148.050 are each amended to read as follows:

The ((administrator)) director has the following powers and duties:

(1) To design and from time to time revise ((an excess of loss)) a reinsurance contract providing coverage to an insurer meeting the requirements of this chapter. Before initially entering into a reinsurance contract, the director shall provide a report to the chairs of the senate ways and means, senate financial institutions, house of representatives revenue, and house of representatives financial institutions committees and shall include an actuarial report describing the various reinsurance methods considered by the director and describing each method's costs. In designing the reinsurance contract the ((administrator)) director shall consider common insurance industry ((excess of loss)) reinsurance contract provisions and shall design the contract in accordance with the following guidelines:

(a) The contract shall provide coverage to the insurer for the liability risks of owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action that are underwritten by the insurer.

(b) In the event of an insolvency of the insurer, the reinsurance contract shall provide reinsurance payable directly to the insurer or to its liquidator, receiver, or successor on the basis of the liability of the insurer in accordance with the reinsurance contract. In no event may the program be liable for or provide coverage for that portion of any covered loss that is the responsibility of the insurer whether or not the insurer is able to fulfill the responsibility.

(c) The total limit of liability for reinsurance coverage shall not exceed one million dollars per occurrence and two million dollars annual aggregate for each policy underwritten by the insurer less the ultimate net loss retained by the insurer as defined and provided for in the reinsurance contract.

(d) Disputes between the insurer and the ((reinsurance)) insurance program shall be settled through arbitration.

(2) To design and implement a structure of periodic premiums due the ((administrator)) director from the insurer that takes full advantage of revenue collections and projected revenue collections to ensure affordable premiums to the insured consistent with sound actuarial principles.

(3) To periodically review premium rates for reinsurance to determine whether revenue appropriations supporting the program can be reduced without substantially increasing the insured's premium costs.

(4) To solicit bids from insurers and select an insurer to provide pollution liability insurance to owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action.

(5) To monitor the activities of the insurer to ensure compliance with this chapter and protect the program from excessive loss exposure resulting from claims mismanagement by the insurer.

(6) To monitor the success of the program and periodically make such reports and recommendations to the legislature as the ((administrator)) director deems appropriate.

(7) To annually report the financial and loss experience of the insurer as to policies issued under the program and the financial and loss experience of the program to the legislature.

(8) To evaluate the effects of the program upon the private market for liability insurance for owners and operators of underground storage tanks and make recommendations to the legislature on the necessity for continuing the program to ensure availability of such coverage.

(9) To enter into contracts with public and private agencies to assist the ((administrator)) director in his or her duties to design, revise, monitor, and evaluate the program and to provide technical or professional assistance to the ((administrator)) director.

(10) To examine the affairs, transactions, accounts, records, documents, and assets of insurers as the ((administrator)) director deems advisable.

Sec. 7. Section 7, chapter 383, Laws of 1989 and RCW 70.148.060 are each amended to read as follows:

(1) All examination and proprietary reports and information obtained by the ((administrator)) director and the ((administrator's)) director's staff in soliciting bids from insurers and in monitoring the insurer selected by the ((administrator)) director shall not be made public or otherwise disclosed to any person, firm, corporation, agency, association, governmental body, or other entity.

(2) Subsection (1) of this section notwithstanding, the ((administra-  
tor)) director may furnish all or part of examination reports prepared by the ((administrator)) director or by any person, firm, corporation, association, or other entity preparing the reports on behalf of the ((administrator)) director to:

(a) The Washington state insurance commissioner;

(b) A person or organization officially connected with the insurer as officer, director, attorney, auditor, or independent attorney or independent auditor; and

(c) The attorney general in his or her role as legal advisor to the ((administrator)) director.

(3) Subsection (1) of this section notwithstanding, the ((administrator)) director may furnish all or part of the examination or proprietary reports or information obtained by the ((administrator)) director to:

(a) The Washington state insurance commissioner; and

(b) A person, firm, corporation, association, governmental body, or other entity with whom the ((administrator)) director has contracted for services necessary to perform his or her official duties.

(4) Examination reports and proprietary information obtained by the ((administrator)) director and the ((administrator's)) director's staff are not subject to public disclosure under chapter 42.17 RCW.

(5) A person who violates any provision of this section is guilty of a gross misdemeanor.

Sec. 8. Section 8, chapter 383, Laws of 1989 and RCW 70.148.070 are each amended to read as follows:

(1) In selecting an insurer to provide pollution liability insurance coverage to owners and operators of underground storage tanks, the ((administrator)) director shall evaluate bids based upon criteria established by the ((administrator)) director that shall include:

(a) The insurer's ability to underwrite pollution liability insurance;

(b) The insurer's ability to settle pollution liability claims quickly and efficiently;

(c) The insurer's estimate of underwriting and claims adjustment expenses;

(d) The insurer's estimate of premium rates for providing coverage;

(e) The insurer's ability to manage and invest premiums; and

(f) The insurer's ability to provide risk management guidance to insureds.

The ((administrator)) director shall select the bidder most qualified to provide insurance consistent with this chapter and need not select the bidder submitting the least expensive bid. The ((administrator)) director may consider bids by groups of insurers and management companies who propose to act in concert in providing coverage and who otherwise meet the requirements of this chapter.

(2) The successful bidder shall agree to provide liability insurance coverage to owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action consistent with the following minimum standards:

(a) The insurer shall provide coverage for defense costs.

(b) The insurer shall collect a deductible from the insured for corrective action in an amount approved by the ((administrator)) director.

(c) The insurer shall provide coverage for accidental releases in the amount of five hundred thousand dollars per occurrence and one million



dollars annual aggregate but no more than one million dollars per occurrence and two million dollars annual aggregate exclusive of defense costs.

(d) The insurer shall require insurance applicants to meet at least the following underwriting standards before issuing coverage to the applicant:

(i) The applicant must be in compliance with statutes, ordinances, rules, regulations, and orders governing the ownership and operation of underground storage tanks as identified by the ((administrator)) director by rule; and

(ii) The applicant must exercise adequate underground storage tank risk management as specified by the ((administrator)) director by rule.

(e) The insurer may exclude coverage for losses arising before the effective date of coverage, and the ((administrator)) director may adopt rules establishing standards for determining whether a loss was incurred before the effective date of coverage.

(f) The insurer may exclude coverage for bodily injury, property damage, and corrective action as permitted by the ((administrator)) director by rule.

(g) The insurer shall use a variable rate schedule approved by the ((administrator)) director taking into account tank type, tank age, and other factors specified by the ((administrator)) director.

(3) The ((administrator)) director shall adopt all rules necessary to implement this section. In developing and adopting rules governing rates, deductibles, underwriting standards, and coverage conditions, limitations, and exclusions, the ((administrator)) director shall balance the owner and operator's need for coverage with the need to maintain the actuarial integrity of the program, shall take into consideration the economic impact of the discontinued use of a storage tank upon the affected community, and shall consult with the standing technical advisory committee established under RCW 70.148.030(3). In developing and adopting rules governing coverage exclusions affecting corrective action, the ((administrator)) director shall consult with the Washington state department of ecology.

(4) Notwithstanding the definitions contained in RCW 70.148.010, the ((administrator)) director may permit an insurer to use different words or phrases describing the coverage provided under the program. In permitting such deviations from the definitions contained in RCW 70.148.010, the ((administrator)) director shall consider the regulations adopted by the United States environmental protection agency requiring financial responsibility by owners and operators of underground petroleum storage tanks.

(5) Owners and operators of underground storage tanks or sites containing underground storage tanks where a preexisting release has been identified or where the owner or operator knows of a preexisting release are eligible for coverage under the program subject to the following conditions:

(a) The owner or operator must have a plan for proceeding with corrective action; and

(b) If the owner or operator files a claim with the insurer, the owner or operator has the burden of proving that the claim is not related to a preexisting release until the owner or operator demonstrates to the satisfaction of the ((administrator)) director that corrective action has been completed.

(6) When a reinsurance contract has been entered into by the agency and insurance companies, the director shall notify the department of ecology of the letting of the contract. Within thirty days of that notification, the department of ecology shall notify all known owners and operators of petroleum underground storage tanks that appropriate levels of financial responsibility must be established by October 26, 1990, in accordance with federal environmental protection agency requirements, and that insurance under the program is available. All owners and operators of petroleum underground storage tanks must also be notified that declaration of method of financial responsibility or intent to seek to be insured under the program must be made to the state by November 1, 1990. If the declaration of method of financial responsibility is not made by November 1, 1990, the department of ecology shall, pursuant to chapter 90.76 RCW, prohibit the owner or operator of an underground storage tank from obtaining a tank tag or receiving petroleum products until such time as financial responsibility has been established.

Sec. 9. Section 9, chapter 383, Laws of 1989 and RCW 70.148.080 are each amended to read as follows:

If the insurer cancels or refuses to issue or renew a policy, the affected owner or operator may appeal the insurer's decision to the ((administrator)) director. The ((administrator)) director shall conduct a brief adjudicative proceeding under chapter 34.05 RCW.

Sec. 10. Section 10, chapter 383, Laws of 1989 and RCW 70.148.090 are each amended to read as follows:

(1) The activities and operations of the program are exempt from the provisions and requirements of Title 48 RCW and to the extent of their participation in the program, the activities and operations of the insurer selected by the ((administrator)) director to provide liability insurance coverage to owners and operators of underground storage tanks are exempt from the requirements of Title 48 RCW except for:

- (a) Chapter 48.03 RCW pertaining to examinations;
- (b) RCW 48.05.250 pertaining to annual reports;
- (c) Chapter 48.12 RCW pertaining to assets and liabilities;
- (d) Chapter 48.13 RCW pertaining to investments;
- (e) Chapter 48.30 RCW pertaining to deceptive, false, or fraudulent acts or practices; and
- (f) Chapter 48.92 RCW pertaining to liability risk retention.

(2) To the extent of their participation in the program, the insurer selected by the ((administrator)) director to provide liability insurance coverage to owners and operators of underground storage tanks shall not

participate in the Washington insurance guaranty association nor shall the association be liable for coverage provided to owners and operators of underground storage tanks issued in connection with the program.

**NEW SECTION.** Sec. 11. A new section is added to chapter 70.148 RCW to read as follows:

The director may design the program to cover the costs incurred in determining whether a proposed applicant for pollution insurance under the program meets the underwriting standards of the insurer. In covering such costs the director shall consider the financial resources of the applicant, shall take into consideration the economic impact of the discontinued use of the applicant's storage tank upon the affected community, shall provide coverage within the revenue limits provided under this chapter, and shall limit coverage of such costs to the extent that coverage would be detrimental to providing affordable insurance under the program.

Sec. 12. Section 16, chapter 383, Laws of 1989 and RCW 82.23A.020 are each amended to read as follows:

(1) A tax is imposed on the privilege of possession of petroleum products in this state. The rate of the tax shall be fifty one-hundredths of one percent multiplied by the wholesale value of the petroleum product.

(2) Moneys collected under this chapter shall be deposited in the pollution liability ((reinsurance)) insurance program trust account under RCW 70.148.020.

(3) Chapter 82.32 RCW applies to the tax imposed in this chapter. The tax due dates, reporting periods, and return requirements applicable to chapter 82.04 RCW apply equally to the tax imposed in this chapter.

(4) Within thirty days after the end of each calendar quarter the department shall determine the "quarterly balance," which shall be the cash balance in the pollution liability ((reinsurance)) insurance program trust account as of the last day of that calendar quarter, after excluding the reserves determined for that quarter under RCW 70.148.020(2). Balance determinations by the department under this section are final and shall not be used to challenge the validity of any tax imposed under this section. For each subsequent calendar quarter, tax shall be imposed under this section during the entire calendar quarter unless:

(a) Tax was imposed under this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than fifteen million dollars; or

(b) Tax was not imposed under this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than seven million five hundred thousand dollars.

**NEW SECTION.** Sec. 13. Section 11, chapter 383, Laws of 1989 and RCW 70.148.100 are each repealed.

**NEW SECTION.** Sec. 14. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 3, 1990.

Passed the Senate March 1, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

## CHAPTER 65

[Senate Bill No. 5712]

### ENVIRONMENTAL HEARINGS OFFICE—ADMINISTRATIVE APPEALS JUDGES

AN ACT Relating to the environmental hearings office; and amending RCW 43.21B.005, 43.21B.090, 43.21B.130, 43.21B.150, 43.21B.160, and 43.21B.230.

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

Sec. 1. Section 2, chapter 47, Laws of 1979 ex. sess. as amended by section 3, chapter 173, Laws of 1986 and RCW 43.21B.005 are each amended to read as follows:

There is created an environmental hearings office of the state of Washington. The environmental hearings office shall consist of the pollution control hearings board created in RCW 43.21B.010, the forest practices appeals board created in RCW 76.09.210, the shorelines hearings board created in RCW 90.58.170, and the hydraulic appeals board created in RCW 75.20.130. The chairman of the pollution control hearings board shall be the chief executive officer of the environmental hearings office. Membership, powers, functions, and duties of the pollution control hearings board, the forest practices appeals board, the shorelines hearings board, and the hydraulic appeals board shall be as provided by law.

The chief executive officer of the environmental hearings office may appoint(~~(, discharge, and fix the compensation of such staff as may be necessary or may contract for required services. Employees of the environmental hearings office shall serve each board at the direction of the chief executive officer of the environmental hearings office)) an administrative appeals judge who shall possess the powers and duties conferred by the administrative procedure act, chapter 34.05 RCW, in cases before the boards comprising the office. The administrative appeals judge shall have a demonstrated knowledge of environmental law, and shall be admitted to the practice of law in the state of Washington. Additional administrative appeals judges may also be appointed by the chief executive officer on the same terms. Administrative appeals judges shall not be subject to chapter 41.06 RCW.~~