

months next succeeding July 1st of each such year, and for any reserve account deposits necessary for such outstanding bonds in the same period.

NEW SECTION. Sec. 8. The bonds authorized in this 1976 act shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

NEW SECTION. Sec. 9. The bonds authorized in this 1976 act shall be issued only after the college board has certified to the state finance committee that its projected general tuition fee revenue shall be adequate, based upon reasonable projections of student enrollments, for the college board to meet the requirements of section 7 of this 1976 act, during the life of the bonds proposed to be issued.

NEW SECTION. Sec. 10. Sections 1 through 9 of this 1976 act are added to Title 28B RCW as a new chapter thereof.

NEW SECTION. Sec. 11. If any provision of this 1976 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.

NEW SECTION. Sec. 12. This 1976 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 House February 23, 1976.

Passed the Senate March 12, 1976.

Approved by the Governor March 19, 1976.

Filed in Office of Secretary of State March 19, 1976.

CHAPTER 108

[Engrossed Substitute Senate Bill No. 3172]

ENERGY

AN ACT Relating to energy; amending section 43.31.040, chapter 8, Laws of 1965 as last amended by section 2, chapter 221, Laws of 1967 and RCW 43.31.040; amending section 5, chapter 10, Laws of 1965 and RCW 43.31.300; amending section 1, chapter 207, Laws of 1961 and RCW 70.98.010; amending section 2, chapter 207, Laws of 1961 as amended by section 1, chapter 88, Laws of 1965 and RCW 70.98.020; amending section 24, chapter 207, Laws of 1961 and RCW 70.98.210; amending section 43.06.010, chapter 8, Laws of 1965 as amended by section 8, chapter 186, Laws of 1969 ex. sess. and RCW 43.06.010; amending section 1, chapter 186, Laws of 1969 ex. sess. and RCW 43.06.200; amending section 2, chapter 186, Laws of 1969 ex. sess. and RCW 43.06.210; amending section 3, chapter 186, Laws of 1969 ex. sess. and RCW 43.06.220; amending section 1, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.010; amending section 2, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.020; amending section 3, chapter 45, Laws of 1970 ex. sess. as amended by section 46, chapter 171, Laws of 1974 ex. sess. and RCW 80.50.030; amending section 4, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.040; amending section 5, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.050; amending section 6, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.060; amending section 7, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.070; amending section 10, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.100; amending section 11, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.110; amending section 12, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.120; amending section 1, chapter 110, Laws of 1974 ex. sess. and RCW 80.50.170; amending section 2, chapter 110, Laws of 1974 ex. sess. and RCW 80.50.175; amending section 5, chapter 155, Laws of 1973 and RCW 90.48.262; creating new chapters in Title 43 RCW; adding a new section to chapter 41.06 RCW; adding a new section to chapter 43.06 RCW; adding a new section to chapter 80.50 RCW; repealing section 7, chapter 207, Laws of 1961, section 4, chapter 88, Laws of 1965, section 1, chapter 44, Laws of 1969, section 18, chapter

18, Laws of 1970 ex. sess., section 162, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 70-.98.070; defining crimes; prescribing penalties; prescribing an effective date; and declaring an emergency.

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

NEW SECTION. Section 1. The legislature finds and declares that it is the continuing purpose of state government, consistent with other essential considerations of state policy, to foster wise and efficient energy use and to promote energy self-sufficiency through the use of indigenous and renewable energy sources, consistent with the promotion of reliable energy sources, the general welfare, and the protection of environmental quality.

NEW SECTION. Sec. 2. 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 development and use of energy resources shall be consistent with the statutory environmental policies of the state;

(3) Energy conservation and elimination of wasteful and uneconomic uses of energy and materials be encouraged. This conservation should include, but not be limited to, resource recovery and materials recycling;

(4) 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

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

NEW SECTION. Sec. 3. As used in this chapter:

(1) "Energy" means: Petroleum or other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material; electricity; solar radiation; geothermal resources; organic waste products; wind; tidal activity; or any other substance or process used to produce heat, light, or motion;

(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) "Council" shall mean the energy advisory council created in section 8 of this 1976 amendatory act;

(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) "Energy facility" means an energy facility as defined in RCW 80.50.020 as now or hereafter amended.

NEW SECTION. Sec. 4. The "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 the provisions of RCW 43.03.040. The director shall employ such personnel as are necessary to carry out the provisions of this chapter. The employment of such personnel shall be in accordance with the provisions of chapter 41.06 RCW, except as provided in section 10 of this 1976 amendatory act: PROVIDED, That the state energy office and its powers, duties and functions shall be dissolved and this act as it relates thereto shall have no further force and effect after April 1, 1981: PROVIDED FURTHER, That the legislature may extend this time period through legislative enactment.

NEW SECTION. Sec. 5. The energy office shall have the following duties:

(1) To establish and maintain a central repository in state government for collection of data on energy resources, including but not limited to:

(a) Data on energy supply, demand, costs, projections, and forecasts;

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

(2) To prepare analyses of such data as well as analyses of projections and/or forecasts of energy supply and demand in the state and region as are necessary for development of recommendations with respect to the timing of construction of additional facilities and other energy programs and the development of other information as is necessary to support the performance of its duties;

(3) To carry out energy related administrative and program functions and activities established by federal law, regulations, or guidelines which are and which have previously been or may be determined to be suitable for implementation by the state of Washington;

(4) To develop and disseminate guidelines for the development of conservation plans for use by government, industry, and individual citizens;

(5) To prepare in conjunction with the energy advisory council, contingency plans for implementation by state government in the case of a clear and foreseeable danger of energy shortages or actual energy emergencies. Such plans shall include procedures for determining when such shortages or emergencies exist, the state officers and agencies to participate in such 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 such emergencies. The components of such plans that require legislation for their implementation shall be presented to the legislature in the form of proposed legislation at the earliest practicable date;

(6) To advise and support agencies of state government whose plans and programs involve the production, conversion, transmission, or end-use of significant amounts of energy, or which require knowledge of the present and projected supply and demand of energy, so that such agencies may evaluate the consequences of such actions with respect to state energy goals;

(7) To advise and support the regulatory functions of state agencies through information, reports, and studies;

(8) To present state interests and concerns on energy matters to local governments, other states, regional interstate energy organizations, federal agencies, and private interests: PROVIDED, That nothing in this subsection shall be construed

to abrogate or diminish the functions, powers, or duties of other state agencies established by law;

(9) To present the state's interests in the field of nuclear energy to federal, regional, and local authorities and to private interests as an identifiable activity within its overall program;

(10) To make periodic reports and policy and program recommendations to the governor and the legislature and to submit proposed legislation to the legislature;

(11) To serve as the official state agency responsible for coordination of energy-related activities;

(12) To adopt rules, pursuant to chapter 34.04 RCW, necessary to carry out the powers and duties enumerated in sections 5 and 6 of this 1976 amendatory act.

NEW SECTION. Sec. 6. In addition to the duties prescribed in section 5 of this 1976 amendatory act, the energy office shall have the authority to:

(1) Obtain all necessary 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. Such information may include but not be limited to:

(a) Sales volume;

(b) Forecasts of energy requirements; and

(c) Inventory of energy.

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.

NEW SECTION. Sec. 7. In addition to the duties and functions assigned by sections 5 and 6 of this 1976 amendatory act, the director of the state energy office shall:

(1) Supervise the day-to-day functions of the office;

- (2) Assign, reassign, and coordinate personnel of the office and prescribe their duties subject to the provisions of chapter 41.06 RCW;
- (3) Provide staff support to the energy advisory council;
- (4) Advise the governor and the legislature on energy matters and of existing and imminent energy shortages.

***NEW SECTION. Sec. 8. There is hereby created an energy advisory council consisting of eleven members.**

(1) Members of the council shall be named within thirty days of the effective date of this 1976 amendatory act. The membership shall include the following:

- (a) The director of the state energy office;**
- (b) The governor shall appoint four members as follows:**
 - (i) One member experienced and knowledgeable in the affairs and operations of electric utility operations;**
 - (ii) One member experienced and knowledgeable in the affairs and operations of the natural gas industry;**
 - (iii) One member experienced and knowledgeable in the affairs and operations of the petroleum products industry;**
 - (iv) One member shall be from an industrial user of electricity, natural gas, and petroleum products; and**
- (c) The president of the senate shall appoint two members;**
- (d) The speaker of the house of representatives shall appoint two members;**
- (e) In addition to appointments made pursuant to subparagraphs (c) and (d) of this subsection the president of the senate and speaker of the house of representatives shall each appoint one additional member who represents the interests of residential consumers of energy.**

(2) No member appointed to the council under subsections (c), (d), and (e) of subsection (1) of this section shall receive, while a member of the council, any substantial portion of his income directly or indirectly from any utility or other person owning or operating any energy facility, or from any manufacturer or seller of any major component of any energy facility. No such member of the council shall be employed by any utility or other person owning or operating any energy facility, or by any manufacturer or seller of any major component of any energy facility during the three-year period following termination as a member of the council.

(3) No member of the council shall hold any state elected office, or hold an appointment to a state elective office.

(4) Members of the council shall make the same reports as are required of elected officials by chapter 42.17 RCW.

(5) Members except for the director of the state energy office shall be appointed to four-year terms except for initial terms as provided for in this subsection as follows:

(a) Two of the initial terms of members appointed by the governor shall expire on January 15, 1978, and two on January 15, 1980;

(b) One of the initial terms of members appointed by the president of the senate shall expire on January 15, 1978, one on January 15, 1979, and one on January 15, 1980;

(c) *One of the initial terms of members appointed by the speaker of the house shall expire on January 15, 1978, one on January 15, 1979, and one on January 15, 1980.*

(6) *Members may be removed from office only because of inability or failure to perform their duties, as determined by a majority vote of the council, following a recommendation by the governor that a member be removed. Vacancies shall be filled by appointments for the unexpired term.*

(7) *The council shall select one of its members, other than the director of the state energy office, to serve as chairman at the pleasure of the council.*

(8) *Six members of the council shall constitute a quorum for conducting business.*

(9) *Members of the council shall be compensated at the rate of forty dollars per day for each day engaged in the business of the council and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. No person appointed to membership on the council who is compensated for service as a member of the council for less than ten days or seventy hours in any month, whichever amount is less, shall receive service credit for such service for that month.*

**Sec. 8. was vetoed, see message at end of chapter.*

****NEW SECTION. Sec. 9. The council shall have the following duties:***

(1) *To advise, monitor, and review the programs and policies of the state energy office and to provide direction and guidance for the activities of the state energy office; to approve by a majority vote all major programs and policies of the state energy office;*

(2) *To act as a source of innovative ideas and policy approaches in energy matters;*

(3) *To advise and make recommendations to the governor and the legislature on state energy policies, practices, programs, and legislation;*

(4) *To make recommendations to the governor for appropriate emergency curtailment and/or allocation plans and procedures to be used in the event of an energy alert or energy emergency;*

(5) *To advise the governor of the time or times, if any, based on pertinent information, when energy supply conditions require execution of energy alert or energy emergency curtailment and/or allocation procedures, and also the time or times when such procedures can prudently be terminated;*

(6) *To monitor and review in conjunction with the state energy office, compliance with and effectiveness of orders of the governor issued under sections 18, 22, and 28 of this 1976 amendatory act: PROVIDED, That compliance by regulated distributors shall be reviewed by the Washington utilities and transportation commission and the results thereof shall be reported to the council;*

(7) *To interpret and coordinate energy related functions and activities established under federal law, regulations, or guidelines which are assigned to or required to be performed by the state of Washington, or which are determined to be suitable for implementation by the state of Washington: PROVIDED, That the governor may designate, with approval of the energy advisory council, appropriate agencies of the state for implementation of all or parts of certain energy programs of the federal*

government where such designation is in the interest of efficiency, economy, or utilization of special expertise: PROVIDED FURTHER, That the energy advisory council shall advise such agencies and review the work performed pursuant to such designation by the governor: PROVIDED FURTHER, That nothing in this subsection shall be construed as limiting the authority of the governor over operations of state agencies; and

(8) To exercise all other powers and perform all other duties now or hereafter provided by law.

*Sec. 9. was vetoed, see message at end of chapter.

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, the director's confidential secretary, the director's deputy director, and to no more than two assistant directors.

Sec. 11. Section 5, chapter 10, Laws of 1965 and RCW 43.31.300 are each amended to read as follows:

The director of the department of commerce and economic development through the division of nuclear energy development, known as the office of nuclear energy development, in cooperation with the state energy office, shall, in addition to the powers and duties otherwise imposed by law, have the following special powers and duties:

(1) Expend such state funds as may be appropriated by the legislature in order to acquire, develop and operate land and facilities which the director believes will foster the development of the state's nuclear economic potential. Such acquisition may be by lease, dedication, purchase, or other arrangement: PROVIDED, HOWEVER, That nothing herein shall be deemed to authorize the state to acquire nuclear facilities or property to engage in competition with organizations or persons. The leasing from the ~~((Atomic Energy Commission))~~ Energy Research and Development Administration of one thousand acres of land lying within the boundaries of the Hanford works near Richland, Washington, in a lease executed on September 10, 1964, is an example of the proper exercise of powers within the purposes of this chapter.

(2) Lease, sublease, or sell real and personal properties to public or private bodies on a competitive basis and at a fair market value when the director believes that such transactions will foster the development of the state's nuclear economic potential.

The director may, however, on a competitive basis lease real and personal properties at less than fair market value on a short term basis if he believes that the long term gain to the state's economic growth justifies such an agreement. Where the lease or sale requires the lessee or purchaser to use the premises for the operation of a specific type of activity, the notice to bidders shall specify the type of business activity required. Final selection among bidders shall, subject to the provisions herein, be by the director with the advice and consent of the ~~((governor's advisory council on nuclear energy and radiation))~~ state energy office.

(3) Enter into contracts with state and private institutions within the state for the carrying out of basic research in such uses of nuclear energy as may be helpful to the economic development of the state.

(4) Assure the maintenance of such insurance coverage by state licensees, lessees, or sublessees as will adequately, in the opinion of the director, protect the citizens of the state of Washington against nuclear incidents that may occur on privately or state controlled nuclear facilities.

(5) Assume responsibility for perpetual surveillance and/or maintenance of radioactive materials held for waste management purposes at any publicly or privately operated facility located within the state, in the event the parties operating such facilities abandon said responsibility, and whenever the federal government or any of its agencies has not assumed said responsibility.

In order to finance such perpetual surveillance and maintenance as the director may undertake, he may collect fees from private or public parties holding radioactive materials for waste management purposes at a total charge of not less than ~~((five cents per cubic foot of space occupied by materials so held, stored, or buried))~~ the prevailing rates at similar sites in the nation: PROVIDED, That in the event the estimated total of such fees will be insufficient to defray the estimated cost of administration of this responsibility for any next ensuing fiscal biennium, the director may prescribe additional fees ~~((, not exceeding fifty cents per cubic foot,))~~ as may be necessary to defray estimated waste management expenses for future fiscal bienniums. All such fees, when received by the director, shall be transmitted to the state treasurer, who shall act as custodian. The treasurer shall place the money in a special account, in the nature of a revolving fund, which may be designated "perpetual maintenance fund," to be disbursed on authorization of the director, or his designated representative. Disbursement shall be made in the manner prescribed by chapter 42.24 RCW, and shall be subject to post audit by the state auditor. No appropriations shall be required to permit expenditures and payment of obligations from such fund, but the condition of the fund and its administration ~~((by the director))~~ shall be reported biennially to the legislature by the director. Moneys in the perpetual maintenance fund shall be invested by the state finance committee in the manner as other state moneys: PROVIDED, HOWEVER, That any interest accruing as a result of investment shall accrue to the perpetual maintenance fund.

Additional moneys as may be specifically appropriated by the legislature, or received from any public or private source, may be placed in the perpetual maintenance fund. The perpetual maintenance fund shall be used exclusively for surveillance and maintenance costs, or for otherwise satisfying surveillance and maintenance obligations.

(6) Enter into an agreement with the federal government or any of its authorized agencies to assume perpetual surveillance and/or maintenance of lands leased or purchased from the federal government or any of its authorized agencies and used as a burial or storage site for radioactive wastes.

Sec. 12. Section 1, chapter 207, Laws of 1961 and RCW 70.98.010 are each amended to read as follows:

It is the policy of the state of Washington in furtherance of its responsibility to protect the public health and safety and to encourage, insofar as consistent with this responsibility, the industrial and economic growth of the state(;

~~(+)) and to institute and maintain a regulatory and inspection program for sources and uses of ionizing radiation so as to provide for ((a)) (1) compatibility with the standards and regulatory programs of the federal government, ((b)) (2) a single, effective system of regulation within the state, and ((c)) (3) a system consonant insofar as possible with those of other states(;~~ and

~~(2) To institute and maintain a program to encourage widespread participation in the development and utilization of sources of ionizing radiation and atomic energy for peaceful purposes to the maximum extent consistent with the health and safety of the public)).~~

Sec. 13. Section 2, chapter 207, Laws of 1961 as amended by section 1, chapter 88, Laws of 1965 and RCW 70.98.020 are each amended to read as follows:

It is the purpose of this chapter to effectuate the policies set forth in RCW 70.98.010 as now or hereafter amended by providing for:

(1) A program of effective regulation of sources of ionizing radiation for the protection of the occupational and public health and safety;

(2) A program to promote an orderly regulatory pattern within the state, among the states and between the federal government and the state and facilitate intergovernmental cooperation with respect to use and regulation of sources of ionizing radiation to the end that duplication of regulation may be minimized;

(3) A program to establish procedures for assumption and performance of certain regulatory responsibilities with respect to byproduct, source, and special nuclear materials(;

~~(4) A program to permit maximum utilization of sources of ionizing radiation consistent with the health and safety of the public)).~~

Sec. 14. Section 24, chapter 207, Laws of 1961 and RCW 70.98.210 are each amended to read as follows:

The agency ~~((and the council))~~ shall study, formulate, and recommend to the legislature from time to time specific recommendations to further the purposes of this chapter.

NEW SECTION. Sec. 15. 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 reduce and/or allocate the usage of energy through a program of mandatory usage curtailment and/or allocation, a severe impact on the health, safety, and general welfare of our state's citizens may occur. The prevention or mitigation of the effects of such energy shortages or disruptions is necessary for preservation of the public health and welfare of the citizens of this state.

It is the intent of this chapter to:

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

(2) Provide penalties for violations of this chapter.

NEW SECTION. Sec. 16. As used in this chapter:

(1) "Energy facility" means a facility which produces, extracts, converts, transports, or stores energy.

(2) "Energy" means petroleum or other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material, or electricity.

(3) "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.

(4) "Council" means the energy advisory council created by section 8 of this 1976 amendatory act.

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

NEW SECTION. Sec. 17. It is the intent of the legislature that the governor and the council, in developing provisions for the allocation, conservation, and consumption of energy give due consideration to supplying vital public services such as essential governmental operations, health and safety functions, emergency services, public mass transportation systems, food production and processing facilities, and energy supply facilities during conditions of an energy supply alert or energy emergency. In developing any energy allocation programs, provisions should be made for the equitable distribution of energy among the geographic areas of the state.

NEW SECTION. Sec. 18. In addition to his existing powers and duties, the governor shall have the following duties and special energy emergency powers subject to the definitions and limitations in this chapter.

(1) The governor may, upon finding that a situation exists which threatens to seriously disrupt or diminish energy supplies to the extent that life, health, or property may be jeopardized, declare a condition or state of "energy supply alert", at which time all of the general and specific emergency powers further enumerated in this section shall become effective. Concurrent with such declaration the governor shall convene the council which shall then meet within five days of the declaration of the alert, if it is not already in session.

(2) The condition of "energy supply alert" shall terminate after sixty consecutive days unless a continuing condition of "energy supply alert" exists, which shall be defined as the occurrence of either of the following: (a) Extension by the governor based on a declaration by the president of the United States of a national state of emergency in regard to energy supply, or (b) declaration of the legislature by concurrent resolution of a continuing condition of "energy supply alert".

(3) The conditions of an energy supply alert shall alternatively cease to exist upon a declaration to that effect by either of the following: (a) The governor; or (b) the legislature, by concurrent resolution, if in regular or extraordinary session.

(4) In a declared state of energy supply alert, the governor may, upon recommendation or approval of the energy advisory council, (a) implement such programs, controls, standards, priorities, and quotas for the production, allocation,

conservation, and consumption of energy; (b) suspend and modify existing pollution control standards and requirements or any other standards or requirements affecting or affected by the use of energy, including those relating to air or water quality control; and (c) establish and implement regional programs and agreements for the purposes of coordinating the energy programs and actions of the state with those of the federal government and of other states and localities.

Nothing in this chapter shall be construed to mean that any program, control, standard, priority quota, or other policy created under the authority of the emergency powers authorized by this chapter shall have any continuing legal effect after the cessation of a declared state of energy supply alert.

If any provision of this chapter is in conflict with any other provision, limitation, or restriction which is now in effect under any other law of this state, this chapter shall govern and control, and such other law or rule or regulation promulgated thereunder shall be deemed superseded for the purposes of this chapter.

Because of the emergency nature of this chapter, all actions authorized or required hereunder, or taken pursuant to any order issued by the governor, shall be exempted from any and all requirements and provisions of the state environmental policy act of 1971, chapter 43.21C RCW, including, but not limited to, the requirement for environmental impact statements.

Except as provided in this section nothing in this chapter shall exempt a person from compliance with the provisions of any other law, rule, or directive unless specifically ordered by the governor.

NEW SECTION. Sec. 19. To protect the public welfare during conditions of energy alerts or emergencies, the chief executive of each political subdivision of the state and each state agency is hereby authorized and directed to carry out in his jurisdiction such energy supply alert or energy emergency measures as may be ordered by the governor.

NEW SECTION. Sec. 20. In order to attain uniformity, as far as is practicable throughout the country in measures taken to aid in energy crisis management, all action taken under this chapter and all orders and rules made pursuant hereto, shall be taken or made with due consideration for and consistent when practicable with the orders, rules, regulations, actions, recommendations, and requests of federal authorities.

NEW SECTION. Sec. 21. Notwithstanding any provision of law or contract to the contrary, all persons who are affected by an order issued or action taken pursuant to this chapter shall comply therewith immediately.

NEW SECTION. Sec. 22. The governor may order any distributor to take such action on his behalf as may be required to implement orders issued pursuant to this chapter, and no distributor shall be liable for actions taken in accordance with such order: PROVIDED, That orders to regulated distributors shall be issued by the Washington utilities and transportation commission in conformance with orders of the governor.

NEW SECTION. Sec. 23. (1) Any person aggrieved by an order issued pursuant to this chapter may petition the governor and request an exception from or modification of such order. The governor may grant, modify, or deny such petition as the public interest may require.

(2) An appeal from any order issued or action taken pursuant to this chapter may be taken to the state supreme court. Such an appeal shall take the form of a petition for a writ of mandamus or prohibition under Article IV, section 4 of the state Constitution, and the supreme court shall have exclusive jurisdiction to hear and act upon such an appeal. Notwithstanding the provisions of chapter 7.16 RCW, or any other applicable statute, the superior courts of this state shall have no jurisdiction to entertain an action or suit relating to any order issued for action taken pursuant to this chapter, nor to hear and determine any appeal from any such order. The provisions of Rule on Appeal I-58 shall apply to any proceedings in the supreme court brought pursuant to this chapter.

NEW SECTION. Sec. 24. Any person wilfully violating any provision of an order issued by the governor pursuant to this chapter shall be guilty of a gross misdemeanor.

Sec. 25. Section 43.06.010, chapter 8, Laws of 1965 as amended by section 8, chapter 186, Laws of 1969 ex. sess. and RCW 43.06.010 are each amended to read as follows:

In addition to those prescribed by the Constitution, the governor may exercise the powers and perform the duties prescribed in this and the following sections:

- (1) He shall supervise the conduct of all executive and ministerial offices;
- (2) He shall see that all offices are filled, and the duties thereof performed, or in default thereof, apply such remedy as the law allows; and if the remedy is imperfect, acquaint the legislature therewith at its next session;
- (3) He shall make the appointments and supply the vacancies mentioned in this title;
- (4) He is the sole official organ of communication between the government of this state and the government of any other state or territory, or of the United States;
- (5) Whenever any suit or legal proceeding is pending against this state, or which may affect the title of this state to any property, or which may result in any claim against the state, he may direct the attorney general to appear on behalf of the state, and report the same to him, or to any grand jury designated by him, or to the legislature when next in session;
- (6) He may require the attorney general or any prosecuting attorney to inquire into the affairs or management of any corporation existing under the laws of this state, or doing business in this state, and report the same to him, or to any grand jury designated by him, or to the legislature when next in session;
- (7) He may require the attorney general to aid any prosecuting attorney in the discharge of his duties;
- (8) He may offer rewards, not exceeding one thousand dollars in each case, payable out of the state treasury, for the apprehension of any person convicted of a felony who has escaped from the state prison or of any person who has committed or is charged with the commission of a felony;
- (9) He shall perform such duties respecting fugitives from justice as are prescribed by law;
- (10) He shall issue and transmit election proclamations as prescribed by law;
- (11) He may require any officer or board to make, upon demand, special reports to him, in writing;

(12) He may, after finding that a public disorder, disaster, energy emergency, or riot exists within this state or any part thereof which affects life, health, property or the public peace, proclaim a state of emergency in the area affected and the powers granted him during a state of emergency shall be effective only within the area described in the proclamation.

Sec. 26. Section 1, chapter 186, Laws of 1969 ex. sess. and RCW 43.06.200 are each amended to read as follows:

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in RCW 43.06.010, and 43.06.200 through 43.06.270 each as now or hereafter amended shall have the following meaning:

"State of emergency" means an emergency proclaimed as such by the governor pursuant to RCW 43.06.010 as now or hereafter amended.

"Energy emergency" means a condition in which the unavailability or disruption of energy supply poses an immediate and grave threat to life, health, property, or the public peace in the area in which such condition is declared to exist. "Energy" shall include the following: (1) Petroleum and other liquid fuels; (2) natural or synthetic fuel gas; (3) solid carbonaceous fuels; (4) fissionable nuclear material; and (5) electricity.

"Governor" means the governor of this state or, in case of his removal, death, resignation or inability to discharge the powers and duties of his office, then the person who may exercise the powers of governor pursuant to the Constitution and laws of this state relating to succession in office.

"Criminal offense" means any prohibited act for which any criminal penalty is imposed by law and includes any misdemeanor, gross misdemeanor, or felony.

Sec. 27. Section 2, chapter 186, Laws of 1969 ex. sess. and RCW 43.06.210 are each amended to read as follows:

The proclamation of a state of emergency and other proclamations or orders issued by the governor pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter amended shall be in writing and shall be signed by the governor and shall then be filed with the secretary of state. The governor shall give as much public notice as practical through the news media of the issuance of proclamations or orders pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter amended. The state of emergency shall cease to exist upon the issuance of a proclamation of the governor declaring its termination: PROVIDED, That the governor must terminate said state of emergency proclamation when order has been restored in the area affected: PROVIDED, FURTHER, That the condition of a state of emergency declared upon a finding that an energy emergency exists shall terminate after thirty consecutive days unless a continuing condition of state of emergency exists, which shall be defined as the occurrence of any of the following: (1) Extension by the governor based on a declaration by the president of the United States of a national emergency; or (2) declaration of the legislature by concurrent resolution of a continuing condition of a state of emergency.

****NEW SECTION. Sec. 28. There is added to chapter 43.06 RCW a new section to read as follows:***

In the event of an energy emergency as defined in RCW 43.06.200 as now or hereafter amended, the governor, after proclaiming a state of emergency therefor, may order such prohibition or curtailment of energy use or allocation, production, or distribution of energy as he deems necessary to preserve and protect public health, welfare, and safety, and to minimize, to the fullest extent possible, the injurious economic, social, and environmental consequences of such an emergency: PROVIDED, That in developing such orders, the governor shall implement only the recommendations of the energy advisory council developed for use in the event of an energy alert and energy emergencies: PROVIDED FURTHER, That such controls regarding energy use and any other emergency order made by the governor in the event of an energy emergency shall not have any continuing legal effect after the cessation of the declared state of energy emergency.

Any person wilfully violating any provision of an order issued by the governor under this section shall be guilty of a gross misdemeanor.

*Sec. 28. was vetoed, see message at end of chapter.

Sec. 29. Section 1, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.010 are each amended to read as follows:

The legislature finds that the present and predicted growth in ~~((electric power))~~ energy demands in the state of Washington requires the development of a procedure for the selection and utilization of sites for ~~((thermal generating facilities))~~ energy facilities and the identification of a state position with respect to each proposed site. The legislature recognizes that the selection of sites ~~((and the routing of associated transmission lines))~~ will have a significant impact upon the welfare of the population, the location and growth of industry and the use of the natural resources of the state.

It is the policy of the state of Washington ~~((that, while recognizing))~~ to recognize the pressing need for increased ~~((power generation))~~ energy facilities, ~~((the state shall))~~ and to ensure through available and reasonable methods, that the location and operation of ~~((thermal power plants))~~ such facilities will produce minimal adverse effects on the environment, ecology of the land and its wildlife, and the ecology of state waters and their aquatic life.

It is the intent to seek courses of action that will balance the increasing demands for ~~((thermal power plant))~~ energy facility location and operation in conjunction with the broad interests of the public. Such action will be based on these premises:

(1) To assure Washington state citizens that, where applicable, operational safeguards are at least as stringent as the criteria established by the federal government and are technically sufficient for their welfare and protection.

(2) To preserve and protect the quality of the environment; to enhance the public's opportunity to enjoy the esthetic and recreational benefits of the air, water and land resources; to promote air cleanliness; and to pursue beneficial changes in the environment.

(3) To provide abundant ~~((low-cost electrical))~~ energy at reasonable cost.

Sec. 30. Section 2, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.020 are each amended to read as follows:

(1) "Applicant" means any ~~((electric utility which))~~ person who makes application for a site location certification pursuant to the provisions of this chapter;

(2) "Application" means any request for approval of a particular site or sites filed in accordance with the procedures established pursuant to this chapter;

(3) "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, or any other entity, public or private, however organized;

~~(4) ("Electric utility" means cities and towns, public utility districts, regulated electric companies, electric cooperatives and joint operating agencies, or combinations thereof, engaged in or authorized to engage in the business of generating, transmitting or distributing electric energy;~~

~~(5)) "Site" means any proposed location ((wherein the power plant, related or supporting facilities, and associated transmission lines will be located)) for an energy facility;~~

~~((6)) (5) "Certification" means a binding agreement between an applicant and the state which shall embody compliance to the siting guidelines, in effect as of the date of certification, which have been adopted ((m)) pursuant to RCW 80.50.050 as now or hereafter amended as conditions to be met prior to or concurrent with the construction or operation of any ((thermal power plant coming under this chapter)) energy facility;~~

~~((7) "Associated transmission lines" means new transmission lines constructed to operate at nominal voltages in excess of 200,000 volts to connect a thermal power plant to the northwest power grid;))~~

~~(6) "Associated facilities" means new storage, transmission, handling, or other related and supporting facilities connecting an energy plant with the existing energy supply, processing, or distribution system, including, but not limited to, communications, controls, mobilizing or maintenance equipment, instrumentation, and other types of ancillary transmission equipment, off-line storage or venting required for efficient operation or safety of the transmission system and overhead, and surface or subsurface lines of physical access for the inspection, maintenance, and safe operations of the transmission facility and new transmission lines constructed to operate at nominal voltages in excess of 200,000 volts to connect a thermal power plant to the northwest power grid: PROVIDED, That common carrier railroads or motor vehicles shall not be included;~~

~~(7) "Transmission facility" means any of the following together with their associated facilities:~~

~~(a) Crude or refined petroleum or liquid petroleum product transmission pipeline: A pipeline larger than six inches minimum inside diameter between valves for the transmission of these products with a total length of at least fifteen miles;~~

~~(b) Natural gas, synthetic fuel gas, or liquefied petroleum gas transmission pipeline: A pipeline for the purpose of delivering gas to a distribution facility or more specifically, a "gas transmission line" as defined by the office of pipeline safety, United States department of transportation, except an interstate natural gas pipeline regulated by the United States federal power commission;~~

~~(8) "Energy transmission corridor" means land jointly used for more than one new transmission facility;~~

~~((8)) (9) "Independent consultants" means those persons who have no financial interest in the applicant's proposals and who are retained by the council to~~

evaluate the applicant's proposals, supporting studies, or to conduct additional studies;

~~((9))~~ (10) "Thermal power plant" means, for the purpose of certification, any electrical generating facility using any fuel, including nuclear materials, for distribution of electricity by electric utilities;

~~((10))~~ "Thermal power plant site evaluation council" or "council" means the body defined under RCW 80.50.030) (11) "Energy facility" means an energy plant, transmission facilities, or an energy transmission corridor: PROVIDED, That the following are excluded from the provisions of this chapter:

(a) Facilities for the extraction, conversion, transmission or storage of water, other than water specifically consumed or discharged by energy production or conversion for energy purposes; and

(b) Facilities operated by and for the armed services for military purposes or by other federal authority for the national defense;

~~((11))~~ (12) "Council" means the energy facility site evaluation council created by section 31 of this 1976 amendatory act;

(13) "Counsel for environment" means an assistant attorney general or a special assistant attorney general who shall represent the public in accordance with RCW 80.50.080;

~~((12))~~ (14) "Construction" means on-site work and construction shall not be deemed to have commenced until there has been an expenditure of not less than two hundred fifty thousand dollars in on-site improvements, excluding exploratory work;

~~((13))~~ (15) "Chairman" means the chairman of the ~~((thermal power plant site evaluation))~~ council;

~~((14))~~ (16) "Member agency" means departments, agencies and commissions enumerated in RCW 80.50.030(3) as now or hereafter amended;

(17) "Energy plant" means the following facilities together with their associated facilities:

(a) Any stationary thermal power plant with generating capacity of two hundred fifty thousand kilowatts or more and floating thermal power plants of fifty thousand kilowatts or more, including associated facilities;

(b) Facilities which will result in receipt of liquified natural gas in the equivalent of more than one hundred million standard cubic feet of natural gas per day, which has been transported over marine waters;

(c) Facilities which will result in the receipt of more than an average of fifty thousand barrels per day of crude or refined petroleum which has been or will be transported over marine waters, except that the provisions of this chapter shall not apply to storage facilities unless occasioned by such new facility construction;

(d) Any underground reservoir for receipt and storage of natural gas as defined in RCW 80.40.010 capable of delivering an average of more than one hundred million standard cubic feet of natural gas per day; and

(e) Facilities which will result in the processing of more than twenty-five thousand barrels per day of petroleum into refined products.

Sec. 31. Section 3, chapter 45, Laws of 1970 ex. sess. as amended by section 46, chapter 171, Laws of 1974 ex. sess. and RCW 80.50.030 are each amended to read as follows:

(1) There is hereby created and established (~~(a "thermal power plant")~~) the "energy facility site evaluation council".

(2) The nonvoting chairman of the council shall be (~~(appointed by the governor with the advice and consent of the senate and shall serve at the pleasure of the governor. The salary of the chairman shall be determined pursuant to the provisions of RCW 43.03.028 as now or hereafter amended)~~) the director of the state energy office: PROVIDED, That the director may designate a deputy director or assistant director to serve as chairman.

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

(a) (~~(Water pollution control commission)~~) Department of ecology

(b) (~~(Department of water resources~~

~~(c))~~) Department of fisheries

~~((d))~~) (c) Department of game

~~((e) State air pollution control board~~

~~(f))~~) (d) Department of parks and recreation

~~((g))~~) (e) Department of (~~(health)~~) social and health services

~~((h))~~) (f) Interagency committee for outdoor recreation

~~((i))~~) (g) Department of commerce and economic development

~~((j))~~) (h) Utilities and transportation commission

~~((k))~~) (i) Office of program planning and fiscal management

~~((l))~~) (j) Department of natural resources

~~((m))~~) (k) Planning and community affairs agency

~~((n))~~) (l) Department of emergency services

~~((o))~~) (m) Department of agriculture

(n) Department of highways.

(4) The county legislative authority of every county wherein an application for a proposed (~~(thermal power plant)~~) site is filed shall appoint a member or designee 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) 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. 32. Section 4, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.040 are each amended to read as follows:

The council shall have the following powers:

(1) To adopt, promulgate, amend, or rescind suitable rules and regulations to carry out the provisions of this chapter, and the policies and practices of the council in connection therewith;

- (2) To appoint an executive secretary to serve at the pleasure of the council;
- (3) To appoint and prescribe the duties of such clerks, employees and agents as may be necessary to carry out the provisions of this chapter: PROVIDED, That such persons shall be employed pursuant to the provisions of chapter 41.06 RCW;
- (4) To develop and apply topical environmental and ecological guidelines in relation to the type, design, and location of ~~((thermal power plant sites and associated transmission line routes))~~ energy facilities subject to this chapter;
- (5) To establish rules of practice for the conduct of public hearings pursuant to the provisions of the Administrative Procedure Act, as found in chapter 34.04 RCW;
- (6) To prescribe the form, content, and necessary supporting documentation for site certification;
- (7) To receive applications for site locations and to investigate the sufficiency thereof;
- (8) To make and contract, when applicable, for independent studies of ~~((thermal power plant sites and transmission line routes))~~ sites proposed by the applicant;
- (9) To conduct hearings on the proposed location of the ~~((thermal power plant))~~ sites ~~((and, when applicable, the associated transmission line routes))~~;
- (10) To prepare written reports to the governor which shall include: (a) a statement indicating whether the application is in compliance with the council's topical guidelines, (b) criteria specific to the site and transmission line routing, and (c) a council recommendation as to the disposition of the application;
- (11) To prescribe the means for monitoring of the effects arising from the construction and the operation of ~~((thermal power plants, and where applicable, associated transmission lines))~~ energy facilities to assure continued compliance with terms of certification;
- (12) To integrate its site evaluation activity with activities of federal agencies having jurisdiction in such matters to avoid unnecessary duplication; and
- (13) To present state concerns and interests to other states, regional organizations, and the federal government on the location, construction, and operation of any energy facility which may affect the environment, health, or safety of the citizens of the state of Washington.

Sec. 33. Section 5, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.050 are each amended to read as follows:

Promptly after it is organized under this chapter, the council shall give notice, pursuant to the Administrative Procedure Act, chapter 34.04 RCW, of intention to adopt as rules the comprehensive guidelines recommended by the ~~((thermal power plant evaluation))~~ council. The ~~((thermal power plant site evaluation))~~ council shall adopt the proposed guidelines as rules after making any changes or additions that are appropriate in view of facts and testimony presented at the hearing, provided that the guidelines so changed are consistent with the purposes of this chapter.

Sec. 34. Section 6, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.060 are each amended to read as follows:

(1) Provisions of this chapter shall apply to those energy facilities to be newly constructed or installed anywhere within the state of Washington, or to reconstruction or enlargement of such existing energy facilities where the new physical capacity being added meets or exceeds those capacities defined in section 30 of this 1976 amendatory act. No construction of such energy facilities or energy transmission corridors may be undertaken, except as otherwise provided in this chapter, after the effective date of this 1976 amendatory act, without first obtaining certification in the manner provided in this chapter.

(2) Provisions of this chapter shall not apply to normal maintenance and repairs which do not increase the capacity of an energy facility.

(3) Applications for certification of thermal power plants and associated transmission lines made prior to the effective date of this 1976 amendatory act, shall continue to be governed by the applicable provisions of law in effect on the day immediately preceding the effective date of this 1976 amendatory act.

~~(Any stationary thermal power plant with generating capacity of two hundred fifty thousand kilowatts or more and floating thermal power plants of fifty thousand kilowatts or more, including associated transmission lines installed anywhere within the state of Washington. No construction of any such facility may be undertaken, after February 23, 1970, without first obtaining certification in the manner as herein provided, except that this chapter shall not apply to any such thermal power plant presently operating, or under construction, and its associated transmission lines.~~

~~(2))~~ (4) Applications for certification shall be upon forms prescribed by the council and shall be supported by such information and technical studies as the council may require.

Sec. 35. Section 7, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.070 are each amended to read as follows:

(1) The council shall receive all applications for ~~((thermal power plant))~~ energy facility site certification. A fee of twenty-five thousand dollars for each proposed site, to be applied toward the cost of any study authorized in subsection (2) of this section, shall accompany the application and shall be a condition precedent to any further consideration or action on the application by the council.

(2) After receiving an application for site certification, the council shall commission its own, independent consultant study to measure the consequences of the proposed ~~((power plant))~~ energy facility on the environment for each site application. The council shall direct the consultant to study any matter which it deems essential to an adequate appraisal of the site. The full cost of the study shall be paid by the applicant: PROVIDED, That said costs exceeding a total of twenty-five thousand dollars shall be payable subject to applicant giving prior approval to such excess amount.

(3) All payments required of the applicant under this section are to be made to the state treasurer, who in turn shall pay the consultant as instructed by the council. All such funds shall be subject to state auditing procedures. Any unexpended portions thereof shall be returned to the applicant.

Sec. 36. Section 10, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.100 are each amended to read as follows:

(1) The council shall report to the governor its recommendations (~~((for the disposition))~~) as to the approval or disapproval of an application for certification within twelve months of receipt by the council of such an application, or such later time as is mutually agreed by the council and the applicant.

(2) Within sixty days of receipt of the council's report the governor shall approve or reject the application for certification.

(3) The issuance of denial of the certification by the governor shall be final as to that application but shall not preclude submission of a subsequent application for the same site on the basis of changed conditions or new information.

(4) Upon approval by the governor of the application for certification the chairman of the council shall within thirty days compose and submit a certification agreement for execution by the governor and the applicant.

Sec. 37. Section 11, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.110 are each amended to read as follows:

(1) If any provision of this chapter is in conflict with any other provision, limitation, or restriction which is now in effect under any other law of this state, or any rule or regulation promulgated thereunder, this chapter shall govern and control and such other law or rule or regulation promulgated thereunder shall be deemed superseded for the purposes of this chapter.

(2) The state hereby preempts the regulation and certification of (~~((thermal power plant sites and thermal power plants as defined in RCW 80.50.020))~~) the location, construction, and operational conditions of certification of the energy facilities included under RCW 80.50.060 as now or hereafter amended.

Sec. 38. Section 12, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.120 are each amended to read as follows:

(1) Subject to the conditions set forth therein any certification signed by the governor shall bind the state (~~((or any))~~) and each of its departments, agencies, divisions, bureaus, commissions or boards of this state whether a member of the council or not as to the approval of the site and the construction and operation of the proposed (~~((thermal power plant and any associated transmission lines))~~) energy facility.

(2) The certification shall authorize the (~~((electric utility))~~) person named therein to construct and operate the proposed (~~((thermal power plant and any associated transmission lines))~~) energy facility subject only to the conditions set forth in such certification.

(3) The issuance of a certification shall be in lieu of any permit, certificate or similar document required by any department, agency, division, bureau, commission or board of this state whether a member of the council or not.

Sec. 39. Section 1, chapter 110, Laws of 1974 ex. sess. and RCW 80.50.170 are each amended to read as follows:

It is the intent of RCW 80.50.175 as now or hereafter amended to expedite the certification of sites for (~~((thermal power plants and associated transmission lines;))~~) energy facilities subject to this chapter to minimize duplication of effort in conducting studies of and preparing environmental impact statements relating to such sites, to authorize and encourage cooperation between the council and counties, other governmental agencies, and municipal or public corporations in connection

with such sites, and to provide for a single detailed statement in accordance with RCW 43.21C.030(2)(c) where any proposed ~~((thermal power plants and associated transmission lines))~~ energy facilities are subject to certification pursuant to chapter 80.50 RCW, and to further the development of ~~((power generation))~~ facilities to meet pressing needs: PROVIDED, That it is the intent of the legislature that appropriate consideration will be given to protecting and preserving the quality of the environment.

Sec. 40. Section 2, chapter 110, Laws of 1974 ex. sess. and RCW 80.50.175 are each amended to read as follows:

(1) In addition to all other powers conferred on the council under this chapter, the council shall have the powers set forth in this section.

(2) The council, upon request of any potential applicant, is authorized, as provided in this section, to conduct a preliminary study of any potential site prior to receipt of an application for site certification. A fee of ten thousand dollars for each potential site, to be applied toward the cost of any study agreed upon pursuant to subsection (3) of this section, shall accompany the request and shall be a condition precedent to any action on the request by the council.

(3) After receiving a request to study a potential site, the council shall commission its own independent consultant to study matters relative to the potential site. The study shall include, but need not be limited to, the preparation and analysis of environmental impact information for the proposed ~~((thermal power plant and associated transmission lines at the))~~ potential site and any other matter the council and the potential applicant deem essential to an adequate appraisal of the potential site. In conducting the study, the council is authorized to cooperate and work jointly with the county or counties in which the potential site is located, any federal, state, or local governmental agency that might be requested to comment upon the potential site, and any municipal or public corporation having an interest in the matter. The full cost of the study shall be paid by the potential applicant: PROVIDED, That such costs exceeding a total of ten thousand dollars shall be payable subject to the potential applicant giving prior approval to such excess amount.

(4) Any study prepared by the council pursuant to subsection (3) of this section ~~((shall))~~ may be used in place of the "detailed statement" required by RCW 43.21C.030(2)(c) by any branch of government except the ~~((thermal power plant site evaluation))~~ council created pursuant to chapter 80.50 RCW. Except for actions of the ~~((thermal power plant site evaluation))~~ council under chapter 80.50 RCW, all proposals for legislation and other actions of any branch of government of this state, including state agencies, municipal and public corporations, and counties, to the extent the legislation or other action involved approves, authorizes, permits, or establishes procedures solely for approving, authorizing or permitting, the location, financing or construction of ~~((one or more thermal power plants or associated transmission lines))~~ any energy facility subject to certification under chapter 80.50 RCW, shall be exempt from the "detailed statement" required by RCW 43.21C.030. Nothing in this subsection shall be construed as exempting any action of the ~~((thermal power plant site evaluation))~~ council from any provision of chapter 43.21C RCW.

(5) All payments required of the potential applicant under this section are to be made to the state treasurer, who in turn shall pay the consultant as instructed by the council. All such funds shall be subject to state auditing procedures. Any unexpended portions thereof shall be returned to the potential applicant.

(6) Nothing in this section shall change the requirements for an application for ~~((thermal power plant))~~ site certification or the requirement of payment of a fee as provided in RCW 80.50.070, or change the time for disposition of an application for certification as provided in RCW 80.50.100.

(7) Nothing in this section shall be construed as preventing a city or county from requiring any information it deems appropriate to make a decision approving a particular location.

Sec. 41. Section 5, chapter 155, Laws of 1973 and RCW 90.48.262 are each amended to read as follows:

(1) The powers established under RCW 90.48.260 shall be implemented by the department through the adoption of rules in every appropriate situation. The permit program authorized under RCW 90.48.260(1) shall constitute a continuation of the established permit program of RCW 90.48.160 and other applicable sections within chapter 90.48 RCW. The appropriate modifications as authorized in this 1973 amendatory act are designed to avoid duplication and other wasteful practices and to insure that the state permit program contains all required elements of and is compatible with the requirements of any national permit system.

(2) Permits for ~~((thermal power plants))~~ energy facilities subject to chapter 80.50 RCW shall be issued by the ~~((thermal power plant))~~ energy facility site evaluation council: PROVIDED, That such permits shall become effective only if the governor approves an application for certification and executes a certification agreement pursuant to said chapter. The council shall have all powers necessary to establish and administer a point source discharge permit program pertaining to such plants, consistent with applicable receiving water quality standards established by the department, and to qualify for full participation in any national waste discharge or pollution discharge elimination permit system. The council and the department shall each adopt, by rules, procedures which will provide maximum coordination and avoid duplication between the two agencies with respect to permits in carrying out the requirements of this act including, but not limited to, monitoring and enforcement of certification agreements, and in qualifying for full participation in any such national system.

NEW SECTION. Sec. 42. There is added to chapter 80.50 RCW a new section to read as follows:

All rules of the thermal power plant site evaluation council in effect on the effective date of this 1976 amendatory act shall continue in full force and effect until amended or rescinded by the energy facility site evaluation council after the effective date of this 1976 amendatory act.

NEW SECTION. Sec. 43. Section 7, chapter 207, Laws of 1961, section 4, chapter 88, Laws of 1965, section 1, chapter 44, Laws of 1969, section 18, chapter 18, Laws of 1970 ex. sess., section 162, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 70.98.070 are each hereby repealed.

NEW SECTION. Sec. 44. (1) Sections 1 through 9 of this 1976 amendatory act shall constitute a new chapter in Title 43 RCW. (2) Sections 15 through 24 of this 1976 amendatory act shall constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 45. If any provision of this 1976 amendatory 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.

NEW SECTION. Sec. 46. This 1976 amendatory 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 March 15, 1976.

Passed the Senate March 12, 1976.

Passed the House March 12, 1976.

Approved by the Governor March 19, 1976 with the exception of sections 8, 9, and 28 which are vetoed.

Filed in Office of Secretary of State March 19, 1976.

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

"I am returning herewith without my approval as to several sections Engrossed Substitute Senate Bill No. 3172 entitled:

"AN ACT Relating to energy."

This bill provides for the creation of a state energy office and energy advisory council, sets forth certain powers of the Governor that may be invoked under specified conditions during energy shortage emergencies, and reconstitutes the Thermal Power Plant Site Evaluation Council into the Energy Facility Site Evaluation Council.

Section 8 creates the energy advisory council and specifies the membership of the council. Of the 11 members, six are to be appointed by the Legislature, with the President of the Senate and the Speaker of the House each appointing three. Notwithstanding its name, there is no question but that the council is one charged with substantive powers going well beyond an advisory role. I believe the provision for legislative appointment of six members of the council is a serious breach of the doctrine of separation of powers, and places the legislative branch of government squarely in the realm of the executive. I fully realize that a veto of this section results in no council at all. But it is my intention, until such time as the Legislature can enact into law a new advisory council, to appoint a committee of persons with much the same expertise and experience as contemplated by the Legislature in this section to serve in an advisory capacity to the Governor and the state energy office and to fill thereby a void created by this veto. For these reasons, I have determined to veto section 8.

Section 9 delineates the powers and duties of the energy advisory council. Portions thereof provide for the council to oversee the work of the state energy office by a majority vote of its membership and likewise to oversee certain actions of the Governor with respect to the designation of state agencies to implement federal energy programs on the state level. I must object to these provisions for the same reasons as stated above for section 8. Advice and counsel are both necessary and proper. But to give the council a supervisory role in approving or disapproving the actions of the energy office and the Governor violates the fundamentals of good government. Accordingly, I have vetoed section 9.

Section 28 sets forth the powers of the Governor in the event of an energy emergency. An energy emergency is elsewhere defined to mean a condition involving "immediate and grave threat to life, health, property, or the public peace" resulting from the unavailability or disruption of energy supplies. A proviso in that section restricts the Governor to taking only such actions as have been developed by the advisory council. I believe it is unwise to limit a governor in this manner during a time of obvious catastrophic conditions, and I do not believe it possible for a

council to foresee during times of normalcy the exigencies of such an energy emergency and thereby prescribe all necessary courses of action. Accordingly, I have vetoed section 28.

With the exception of sections 8, 9 and 28 which I have vetoed for the above stated reasons, I have approved the remainder of Engrossed Substitute Senate Bill No. 3172. I wish to take this opportunity also to commend the Legislature for its development of this important legislation, and in particular, to express my appreciation to those members who toiled long and hard in directing the bill through the legislative process."

CHAPTER 109

[House Bill No. 1497]

INSOLVENCY OF INSURERS

AN ACT Relating to the insolvency of insurers; amending section .31.28, chapter 79, Laws of 1947 and RCW 48.31.280; amending section 2, chapter 265, Laws of 1971 ex. sess. and RCW 48.32.020; amending section 3, chapter 265, Laws of 1971 ex. sess. and RCW 48.32.030; amending section 4, chapter 265, Laws of 1971 ex. sess. and RCW 48.32.040; amending section 5, chapter 265, Laws of 1971 ex. sess. and RCW 48.32.050; amending section 6, chapter 265, Laws of 1971 ex. sess. and RCW 48.32.060; amending section 8, chapter 265, Laws of 1971 ex. sess. and RCW 48.32.080; amending section 16, chapter 265, Laws of 1971 ex. sess. and RCW 48.32.160; adding a new section to chapter 79, Laws of 1947 and to chapter 48.30 RCW; adding a new section to chapter 79, Laws of 1947 and to chapter 48.31 RCW; adding a new section to chapter 265, Laws of 1971 ex. sess. and to chapter 48.32 RCW; and declaring an emergency.

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

Section 1. Section .31.28, chapter 79, Laws of 1947 and RCW 48.31.280 are each amended to read as follows:

(1) Compensation actually owing to employees other than officers of an insurer, for services rendered within three months prior to the commencement of a proceeding against the insurer under this chapter, but not exceeding three hundred dollars for each such employee, shall be paid prior to the payment of any other debt or claim, and in the discretion of the commissioner may be paid as soon as practicable after the proceeding has been commenced; except, that at all times the commissioner shall reserve such funds as will in his opinion be sufficient for the expenses of administration. ~~((2))~~ Such priority shall be in lieu of any other similar priority which may be authorized by law as to the wages or compensation of such employees.

(2) The priorities of distribution in a liquidation proceeding shall be in the following order:

- (a) Expenses of administration;
 - (b) Compensation of employees as provided in subsection (1) of this section;
 - (c) Federal, state, and local taxes;
 - (d) Claims arising out of and within the coverages of insurance policies issued by the insurer being liquidated for losses incurred, including:
 - (i) Third party claims and claims for unearned premiums;
 - (ii) Claims presented by the Washington Insurance Guaranty Association which represent "covered claims" as defined in RCW 48.32.030(4) and which have been paid by such association;
 - (iii) Claims to which the Washington life and disability insurance guaranty association shall have become subrogated under the provisions of RCW 48.32A.060;
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