
SENATE BILL 5004

State of Washington

63rd Legislature

2013 Regular Session

By Senator Ericksen

Read first time 01/14/13. Referred to Committee on Governmental Operations .

1 AN ACT Relating to restricting gubernatorial appointment of
2 legislators to boards, commissions, and councils; amending RCW
3 43.06.010, 36.70A.250, 43.21B.020, 43.52.374, 51.52.010, 66.08.012,
4 80.01.010, and 82.03.020; reenacting and amending RCW 9.95.003 and
5 80.50.030; and adding a new section to chapter 43.06 RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.06 RCW
8 to read as follows:

9 (1) The governor may not, within the period specified in subsection
10 (2) of this section, appoint a legislator described in subsection (3)
11 of this section to:

12 (a) The indeterminate sentence review board, pursuant to RCW
13 9.95.003;

14 (b) The growth management hearings board, pursuant to RCW
15 36.70A.250;

16 (c) The pollution control hearings board, pursuant to RCW
17 43.21B.010;

18 (d) The executive board of directors of a joint operating agency,
19 pursuant to RCW 43.52.374;

1 (e) The board of industrial insurance appeals, pursuant to RCW
2 51.52.010;

3 (f) The Washington state liquor control board, pursuant to RCW
4 66.08.012;

5 (g) The Washington utilities and transportation commission,
6 pursuant to RCW 80.01.010;

7 (h) The energy facility site evaluation council, pursuant to RCW
8 80.50.030; or

9 (i) The board of tax appeals, pursuant to RCW 82.03.020.

10 (2) The restriction in subsection (1) of this section commences on
11 the thirtieth day before the first day for filing declarations of
12 candidacy under RCW 29A.24.050 and concludes at the end of the Monday
13 following the last day for candidates to file under RCW 29A.24.050.

14 (3) The restriction in subsection (1) of this section applies to
15 appointment of any legislator serving in the final year of the
16 legislator's term of office, including a legislator who resigns from
17 office during the period specified in subsection (2) of this section.

18 **Sec. 2.** RCW 43.06.010 and 1994 c 223 s 3 are each amended to read
19 as follows:

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

23 (1) The governor (~~shall~~) must supervise the conduct of all
24 executive and ministerial offices;

25 (2) The governor (~~shall see~~) must provide that all offices are
26 filled, including as provided in RCW 42.12.070, and the duties thereof
27 performed, or in default thereof, apply such remedy as the law allows;
28 and if the remedy is imperfect, acquaint the legislature therewith at
29 its next session;

30 (3) The governor (~~shall~~) must make the appointments and supply
31 the vacancies mentioned in this title, subject to the restriction
32 specified in section 1 of this act;

33 (4) The governor is the sole official organ of communication
34 between the government of this state and the government of any other
35 state or territory, or of the United States;

36 (5) Whenever any suit or legal proceeding is pending against this
37 state, or which may affect the title of this state to any property, or

1 which may result in any claim against the state, the governor may
2 direct the attorney general to appear on behalf of the state, and
3 report the same to the governor, or to any grand jury designated by the
4 governor, or to the legislature when next in session;

5 (6) The governor may require the attorney general or any
6 prosecuting attorney to inquire into the affairs or management of any
7 corporation existing under the laws of this state, or doing business in
8 this state, and report the same to the governor, or to any grand jury
9 designated by the governor, or to the legislature when next in session;

10 (7) The governor may require the attorney general to aid any
11 prosecuting attorney in the discharge of the prosecutor's duties;

12 (8) The governor may offer rewards, not exceeding one thousand
13 dollars in each case, payable out of the state treasury, for
14 information leading to the apprehension of any person convicted of a
15 felony who has escaped from a state correctional institution or for
16 information leading to the arrest of any person who has committed or is
17 charged with the commission of a felony;

18 (9) The governor (~~shall~~) must perform such duties respecting
19 fugitives from justice as are prescribed by law;

20 (10) The governor (~~shall~~) must issue and transmit election
21 proclamations as prescribed by law;

22 (11) The governor may require any officer or board to make, upon
23 demand, special reports to the governor, in writing;

24 (12) The governor may, after finding that a public disorder,
25 disaster, energy emergency, or riot exists within this state or any
26 part thereof which affects life, health, property, or the public peace,
27 proclaim a state of emergency in the area affected, and the powers
28 granted the governor during a state of emergency (~~shall be~~) are
29 effective only within the area described in the proclamation;

30 (13) The governor may, after finding that there exists within this
31 state an imminent danger of infestation of plant pests as defined in
32 RCW 17.24.007 or plant diseases which seriously endangers the
33 agricultural or horticultural industries of the state of Washington, or
34 which seriously threatens life, health, or economic well-being, order
35 emergency measures to prevent or abate the infestation or disease
36 situation, which measures, after thorough evaluation of all other
37 alternatives, may include the aerial application of pesticides;

1 (14) On all compacts forwarded to the governor pursuant to RCW
2 9.46.360(6), the governor is authorized and empowered to execute on
3 behalf of the state compacts with federally recognized Indian tribes in
4 the state of Washington pursuant to the federal Indian Gaming
5 Regulatory Act, 25 U.S.C. Sec. 2701 et seq., for conducting class III
6 gaming, as defined in the Act, on Indian lands.

7 **Sec. 3.** RCW 9.95.003 and 2011 1st sp.s. c 40 s 15 and 2011 c 336
8 s 336 are each reenacted and amended to read as follows:

9 (1) The board is created within the department. The board
10 (~~shall~~) must consist of a chair and four other members, each of whom
11 (~~shall~~) must be appointed by the governor with the consent of the
12 senate. Any appointment of a legislator is subject to the restriction
13 specified in section 1 of this act. Each member (~~shall~~) holds office
14 for a term of five years, and until his or her successor is appointed
15 and qualified. The terms (~~shall~~) expire on April 15th of the
16 expiration year. Vacancies in the membership of the board (~~shall~~)
17 must be filled by appointment by the governor with the consent of the
18 senate. In the event of the inability of any member to act, the
19 governor (~~shall~~) must appoint some competent person to act in his or
20 her stead during the continuance of such inability. The members
21 (~~shall~~) are not (~~be~~) removable during their respective terms except
22 for cause determined by the superior court of Thurston county. The
23 governor in appointing the members (~~shall~~) must designate one of them
24 to serve as chair at the governor's pleasure. The appointed chair
25 (~~shall~~) serves as a fully participating board member.

26 (2) The department (~~shall~~) must provide administrative and staff
27 support for the board. The secretary may employ a senior
28 administrative officer and such other personnel as may be necessary to
29 assist the board in carrying out its duties.

30 (3) The members of the board and staff assigned to the board
31 (~~shall~~) may not engage in any other business or profession or hold
32 any other public office without the prior approval of the executive
33 ethics board indicating compliance with RCW 42.52.020, 42.52.030,
34 42.52.040, and 42.52.120; nor (~~shall~~) may they, at the time of
35 appointment or employment or during their incumbency, serve as the
36 representative of any political party on an executive committee or

1 other governing body thereof, or as an executive officer or employee of
2 any political committee or association.

3 (4) The members of the board (~~shall~~) must each severally receive
4 salaries fixed by the governor in accordance with the provisions of RCW
5 43.03.040, and in addition (~~shall~~) must receive travel expenses
6 incurred in the discharge of their official duties in accordance with
7 RCW 43.03.050 and 43.03.060.

8 **Sec. 4.** RCW 36.70A.250 and 2010 c 211 s 4 are each amended to read
9 as follows:

10 (1) A growth management hearings board for the state of Washington
11 is created. The board (~~shall~~) must consist of seven members
12 qualified by experience or training in matters pertaining to land use
13 law or land use planning and who have experience in the practical
14 application of those matters. All seven board members (~~shall~~) must
15 be appointed by the governor, two each residing respectively in the
16 central Puget Sound, eastern Washington, and western Washington
17 regions, plus one board member residing within the state of Washington.
18 At least three members of the board (~~shall~~) must be admitted to
19 practice law in this state, one each residing respectively in the
20 central Puget Sound, eastern Washington, and western Washington
21 regions. At least three members of the board (~~shall~~) must have been
22 a city or county elected official, one each residing respectively in
23 the central Puget Sound, eastern Washington, and western Washington
24 regions. After expiration of the terms of board members on the
25 previously existing three growth management hearings boards, no more
26 than four members of the seven-member board may be members of the same
27 major political party. No more than two members at the time of their
28 appointment or during their term may reside in the same county. Any
29 appointment of a legislator is subject to the restriction specified in
30 section 1 of this act.

31 (2) Each member of the board (~~shall~~) must be appointed for a term
32 of six years. A vacancy (~~shall~~) must be filled by appointment by the
33 governor for the unexpired portion of the term in which the vacancy
34 occurs. Members of the previously existing three growth management
35 hearings boards appointed before July 1, 2010, (~~shall~~) must complete
36 their staggered, six-year terms as members of the growth management
37 hearings board created under subsection (1) of this section. The

1 reduction from nine board members on the previously existing three
2 growth management hearings boards to seven total members on the growth
3 management hearings board (~~shall~~) must be made through attrition,
4 voluntary resignation, or retirement.

5 **Sec. 5.** RCW 43.21B.020 and 2009 c 549 s 5091 are each amended to
6 read as follows:

7 The hearings board (~~shall~~) must consist of three members
8 qualified by experience or training in pertinent matters pertaining to
9 the environment, and at least one member of the hearings board
10 (~~shall~~) must have been admitted to practice law in this state and
11 engaged in the legal profession at the time of his or her appointment.
12 The hearings board (~~shall~~) must be appointed by the governor with the
13 advice and consent of the senate, and no more than two of whom at the
14 time of appointment or during their term (~~shall~~) must be members of
15 the same political party. Any appointment of a legislator is subject
16 to the restriction specified in section 1 of this act.

17 **Sec. 6.** RCW 43.52.374 and 2009 c 549 s 5136 are each amended to
18 read as follows:

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

25 (a) Five members of the executive board (~~shall~~) must be elected
26 to four-year terms by the board of directors from among the members of
27 the board of directors. The board of directors may provide by rule for
28 the composition of the five members of the executive board elected from
29 among the members of the board of directors so as to reflect the member
30 public utility districts' and cities' participation in the joint
31 operating agency's projects. Members elected to the executive board
32 from the board of directors are ineligible for continued membership on
33 the executive board if they cease to be members of the board of
34 directors. The board of directors may also provide by rule for the
35 removal of a member of the executive board, except for the outside
36 directors. Members of the board of directors may be elected to serve

1 successive terms on the executive board. Members elected to the
2 executive board from the board of directors (~~shall~~) must receive a
3 salary from the operating agency at a rate set by the board of
4 directors.

5 (b) Six members of the executive board (~~shall~~) must be outside
6 directors. Three (~~shall~~) must be selected and appointed by the board
7 of directors, and three (~~shall~~) must be selected and appointed by the
8 governor and confirmed by the senate. Any appointment of a legislator
9 is subject to the restriction specified in section 1 of this act. All
10 outside directors (~~shall~~) must:

11 (i) Serve four-year terms on the executive board. However, of the
12 initial members of the executive board, the board of directors and the
13 governor (~~shall~~) must each appoint one outside director to serve a
14 two-year term, one outside director to serve a three-year term, and one
15 outside director to serve a four-year term. Thereafter, all outside
16 directors (~~shall~~) must be appointed for four-year terms. All outside
17 directors are eligible for reappointment;

18 (ii) Receive travel expenses on the same basis as the five members
19 elected from the board of directors. The outside directors (~~shall~~)
20 must also receive a salary from the operating agency as fixed by the
21 governor;

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

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

30 (v) Be representative of policymakers in business, finance, or
31 science, or have expertise in the construction or management of such
32 facilities as the operating agency is constructing or operating, or
33 have expertise in the termination, disposition, or liquidation of
34 corporate assets.

35 (c) The governor may remove outside directors from the executive
36 board for incompetency, misconduct, or malfeasance in office in the
37 same manner as state appointive officers under chapter 43.06 RCW. For

1 purposes of this subsection, misconduct (~~shall~~) includes, but is not
2 (~~be~~) limited to, nonfeasance and misfeasance.

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

9 (3) The eleven members of the executive board (~~shall~~) must be
10 selected with the objective of establishing an executive board which
11 has the resources to effectively carry out its responsibilities. All
12 members of the executive board (~~shall~~) must conduct their business in
13 a manner which in their judgment is in the interest of all ratepayers
14 affected by the joint operating agency and its projects.

15 (4) The executive board (~~shall~~) must elect from its members a
16 chair, vice chair, and secretary, who (~~shall~~) serve at the pleasure
17 of the executive board. The executive board (~~shall~~) must adopt rules
18 for the conduct of its meetings and the carrying out of its business.
19 All proceedings (~~shall~~) must be by motion or resolution and (~~shall~~)
20 must be recorded in the minute book, which (~~shall-be~~) is a public
21 record. A majority of the executive board (~~shall~~) constitutes a
22 quorum for the transaction of business.

23 (5) With respect to any operating agency existing on April 20,
24 1982, to which the provisions of this section are applicable:

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

27 (b) The board of directors and the governor (~~shall~~) must select
28 and appoint the initial outside directors and the executive board
29 (~~shall~~) must hold its organizational meeting no later than sixty days
30 after April 20, 1982, and the powers and duties prescribed in this
31 chapter (~~shall~~) devolve upon the executive board at that time.

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

37 (7)(a) Members of the executive board (~~shall-be~~) are immune from
38 civil liability for mistakes and errors of judgment in the good faith

1 performance of acts within the scope of their official duties involving
2 the exercise of judgment and discretion. This grant of immunity
3 (~~shall~~) may not be construed as modifying the liability of the
4 operating agency.

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

15 (c) In addition members of the executive board who are utility
16 employees (~~shall~~) may not be fired, forced to resign, or demoted from
17 their utility jobs for decisions they make while carrying out their
18 duties as members of the executive board involving the exercise of
19 judgment and discretion.

20 **Sec. 7.** RCW 51.52.010 and 2004 c 65 s 15 are each amended to read
21 as follows:

22 (~~There shall be~~) (1) A "board of industrial insurance appeals,"
23 hereinafter called the "board," is hereby created, consisting of three
24 members appointed by the governor, with the advice and consent of the
25 senate, as (~~hereinafter~~) provided in this section. (~~One shall~~) The
26 first member must be a representative of the public and a lawyer,
27 appointed from a mutually agreed to list of not less than three active
28 or judicial members of the Washington state bar association, submitted
29 to the governor by the two organizations defined below, and (~~such~~)
30 that member (~~shall~~) must be the chairperson of (~~said~~) the board.
31 The second member (~~shall~~) must be a representative of the majority of
32 workers engaged in employment under this title and selected from a list
33 of not less than three names submitted to the governor by an
34 organization, statewide in scope, which through its affiliates embraces
35 a cross section and a majority of the organized labor of the state.
36 The third member (~~shall~~) must be a representative of employers under
37 this title, and appointed from a list of at least three names submitted

1 to the governor by a recognized statewide organization of employers,
2 representing a majority of employers. Any appointment of a legislator
3 is subject to the restriction specified in section 1 of this act.

4 (2) The initial terms of office of the members of the board
5 (~~shall~~) must be for six, four, and two years respectively.
6 Thereafter all terms (~~shall~~) must be for a period of six years. Each
7 member of the board (~~shall be~~) is eligible for reappointment and
8 (~~shall~~) must hold office until his or her successor is appointed and
9 qualified. In the event of a vacancy the governor is authorized to
10 appoint a successor to fill the unexpired term of his or her
11 predecessor. All appointments to the board (~~shall~~) must be made in
12 conformity with the foregoing plan.

13 (3) In the event a board member becomes incapacitated in excess of
14 thirty days either due to his or her illness or that of an immediate
15 family member, as determined by a request for family leave or as
16 certified by the affected member's treating physician or licensed
17 advanced registered nurse practitioner, the governor (~~shall~~) must
18 appoint an acting member to serve pro tem. Such an appointment
19 (~~shall~~) must be made in conformity with (~~the foregoing plan~~)
20 subsection (1) of this section, except that the list of candidates
21 (~~shall~~) must be submitted to the governor not more than fifteen days
22 after the affected organizations are notified of the incapacity, and
23 the governor (~~shall~~) must make the appointment within fifteen days
24 after the list is submitted. The temporary member (~~shall~~) must serve
25 until such time as the affected member is able to reassume his or her
26 duties by returning from requested family leave or as determined by the
27 treating physician or licensed advanced registered nurse practitioner,
28 or until the affected member's term expires, whichever occurs first.

29 (4) Whenever the workload of the board and its orderly and
30 expeditious disposition (~~shall~~) necessitates, the governor may
31 appoint two additional pro-tem members in addition to the regular
32 members. Such appointments (~~shall~~) must be for a definite period of
33 time, and (~~shall~~) must be made from lists submitted respectively by
34 labor and industry as in the case of regular members. One pro-tem
35 member (~~shall~~) must be a representative of labor and one (~~shall~~)
36 must be a representative of industry.

37 (5) Members (~~shall~~) must devote their entire time to the duties
38 of the board and (~~shall~~) must receive for their services a salary as

1 fixed by the governor in accordance with the provisions of RCW
2 43.03.040, which (~~shall be~~) is in addition to travel expenses in
3 accordance with RCW 43.03.050 and 43.03.060 (~~as now existing or~~
4 ~~hereafter amended~~).

5 (6) Headquarters for the board (~~shall~~) must be located in
6 Olympia.

7 (7) The board (~~shall~~) must adopt a seal (~~which shall be~~) that
8 is judicially recognized.

9 **Sec. 8.** RCW 66.08.012 and 2012 c 117 s 265 are each amended to
10 read as follows:

11 (~~There shall be a board, known as~~) (1) The "Washington state
12 liquor control board(~~(7)~~)" is hereby created, consisting of three
13 members, to be appointed by the governor, with the consent of the
14 senate, who (~~shall~~) must each be paid an annual salary to be fixed by
15 the governor in accordance with the provisions of RCW 43.03.040. Any
16 appointment of a legislator is subject to the restriction specified in
17 section 1 of this act.

18 (2) The governor may, in his or her discretion, appoint one of the
19 members as chair of the board(~~(7) and~~).

20 (3) A majority of the members (~~shall~~) constitutes a quorum of the
21 board.

22 **Sec. 9.** RCW 80.01.010 and 2006 c 346 s 1 are each amended to read
23 as follows:

24 (1) There is hereby created and established a state commission to
25 be known and designated as the Washington utilities and transportation
26 commission, and in this chapter referred to as the commission.

27 (2) The commission (~~shall be composed~~) must consist of three
28 members appointed by the governor, with the consent of the senate. Not
29 more than two members of (~~said~~) the commission (~~shall~~) may belong
30 to the same political party. Any appointment of a legislator is
31 subject to the restriction specified in section 1 of this act.

32 (3) Each commissioner (~~shall~~) must be appointed and hold office
33 for the term of six years. The governor (~~shall~~) must designate one
34 of the commissioners to be chair of the commission during the term of
35 the governor.

1 (4) Each commissioner (~~shall~~) must receive a salary as may be
2 fixed by the governor in accordance with the provisions of RCW
3 43.03.040.

4 (5) Any member of the commission may be removed for inefficiency,
5 malfeasance or misfeasance in office, upon specific written charges
6 filed by the governor, who (~~shall~~) transmits (~~such~~) the written
7 charges to the member accused and to the chief justice of the supreme
8 court. The chief justice (~~shall~~) must thereupon designate a special
9 tribunal composed of three judges of the superior court to hear and
10 adjudicate the charges. (~~Such~~) The tribunal (~~shall~~) must fix the
11 time, place, and procedure for the hearing, and the hearing (~~shall~~)
12 must be public. The decision of (~~such~~) the tribunal (~~shall be~~) is
13 final and not subject to review.

14 (6) If the tribunal specified (~~herein~~) in this section finds the
15 charges of the governor to be true, the governor (~~shall have~~) has the
16 right to immediately remove the commissioner from office, to declare
17 the position of the commissioner vacant, and appoint another
18 commissioner to the position in accordance with the provisions of the
19 law.

20 (7) Any vacancy arising in the office of commissioner (~~shall~~)
21 must be filled by appointment by the governor, and, except for persons
22 appointed as pro tempore commissioners, an appointee selected to fill
23 a vacancy (~~shall~~) must hold office for the balance of the full term
24 for which his or her predecessor on the commission was appointed. If
25 a vacancy occurs while the senate is not in session, the governor
26 (~~shall~~) must make a temporary appointment until the next meeting of
27 the senate, when he or she (~~shall~~) must present to the senate his or
28 her nomination or nominations for the office to be filled.

29 **Sec. 10.** RCW 80.50.030 and 2010 c 271 s 601 and 2010 c 152 s 2 are
30 each reenacted and amended to read as follows:

31 (1) There is created and established the energy facility site
32 evaluation council.

33 (2)(a) The chair of the council (~~shall~~) must be appointed by the
34 governor with the advice and consent of the senate(~~, shall~~). Any
35 appointment of a legislator is subject to the restriction specified in
36 section 1 of this act. The chair must have a vote on matters before
37 the council, (~~shall~~) must serve for a term coextensive with the term

1 of the governor, and is removable for cause. The chair may designate
2 a member of the council to serve as acting chair in the event of the
3 chair's absence. The salary of the chair (~~shall be~~) is determined
4 under RCW 43.03.040. The chair is a "state employee" for the purposes
5 of chapter 42.52 RCW. As applicable, when attending meetings of the
6 council, members may receive reimbursement for travel expenses in
7 accordance with RCW 43.03.050 and 43.03.060, and are eligible for
8 compensation under RCW 43.03.250.

9 (b) The chair or a designee (~~shall~~) must execute all official
10 documents, contracts, and other materials on behalf of the council.
11 The Washington utilities and transportation commission (~~shall~~) must
12 provide all administrative and staff support for the council. The
13 commission has supervisory authority over the staff of the council and
14 (~~shall~~) must employ (~~such~~) personnel as are necessary to implement
15 this chapter. Not more than three such employees may be exempt from
16 chapter 41.06 RCW. The council (~~shall~~) must otherwise retain its
17 independence in exercising its powers, functions, and duties and its
18 supervisory control over nonadministrative staff support. Membership,
19 powers, functions, and duties of the Washington state utilities and
20 transportation commission and the council (~~shall~~) must otherwise
21 remain as provided by law.

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

- 25 (i) Department of ecology;
- 26 (ii) Department of fish and wildlife;
- 27 (iii) Department of commerce;
- 28 (iv) Utilities and transportation commission; and
- 29 (v) Department of natural resources.

30 (b) The directors, administrators, or their designees, of the
31 following departments, agencies, and commissions, or their statutory
32 successors, may participate as councilmembers at their own discretion
33 provided they elect to participate no later than sixty days after an
34 application is filed:

- 35 (i) Department of agriculture;
- 36 (ii) Department of health;
- 37 (iii) Military department; and
- 38 (iv) Department of transportation.

1 (c) Council membership is discretionary for agencies that choose to
2 participate under (b) of this subsection only for applications that are
3 filed with the council on or after May 8, 2001. For applications filed
4 before May 8, 2001, council membership is mandatory for those agencies
5 listed in (b) of this subsection.

6 (4) The appropriate county legislative authority of every county
7 wherein an application for a proposed site is filed (~~shall~~) must
8 appoint a member or designee as a voting member to the council. The
9 member or designee so appointed (~~shall~~) sits with the council only at
10 such times as the council considers the proposed site for the county
11 which he or she represents, and such member or designee (~~shall~~) must
12 serve until there has been a final acceptance or rejection of the
13 proposed site.

14 (5) The city legislative authority of every city within whose
15 corporate limits an energy facility is proposed to be located (~~shall~~)
16 must appoint a member or designee as a voting member to the council.
17 The member or designee so appointed (~~shall~~) sits with the council
18 only at such times as the council considers the proposed site for the
19 city which he or she represents, and such member or designee (~~shall~~)
20 must serve until there has been a final acceptance or rejection of the
21 proposed site.

22 (6) For any port district wherein an application for a proposed
23 port facility is filed subject to this chapter, the port district
24 (~~shall~~) must appoint a member or designee as a nonvoting member to
25 the council. The member or designee so appointed (~~shall~~) sits with
26 the council only at such times as the council considers the proposed
27 site for the port district which he or she represents, and such member
28 or designee (~~shall~~) must serve until there has been a final
29 acceptance or rejection of the proposed site. The provisions of this
30 subsection (~~shall~~) do not apply if the port district is the
31 applicant, either singly or in partnership or association with any
32 other person.

33 **Sec. 11.** RCW 82.03.020 and 1967 ex.s. c 26 s 31 are each amended
34 to read as follows:

35 (1) The board of tax appeals(~~(, hereinafter in chapter 26, Laws of~~
36 ~~1967 ex. sess. referred to as the board, shall)) must consist of three~~
37 members qualified by experience and training in the field of state and

1 local taxation, appointed by the governor with the advice and consent
2 of the senate, and no more than two of whom at the time of appointment
3 or during their terms (~~shall~~) may be members of the same political
4 party. Any appointment of a legislator is subject to the restriction
5 specified in section 1 of this act.

6 (2) For the purposes of this chapter, the "board" means the "board
7 of tax appeals" created in this section.

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