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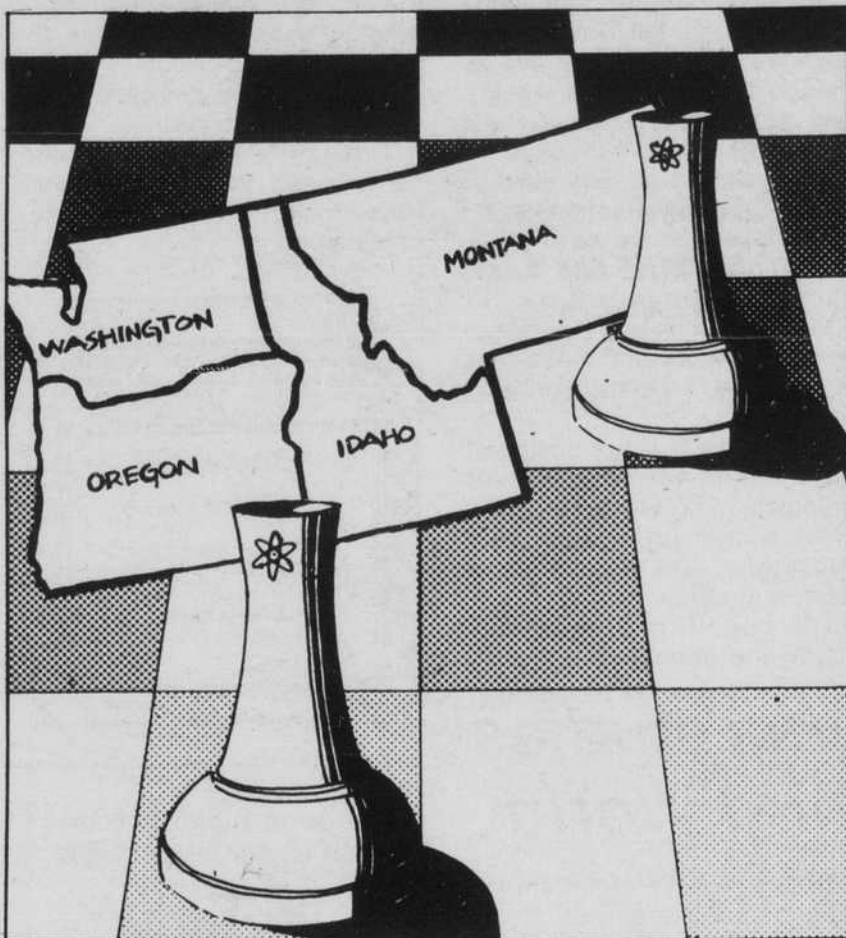
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Atiyeh, not voters, will select power board representatives



Emerald graphic

By GREG WASSON
Of the Emerald

SALEM — Legislation allowing the governor to appoint Oregon's two representatives to the Northwest Regional Power Council won approval 54-5 in the House Tuesday.

Opponents centered their opposition on the claim the bill violates the Oregon Constitution.

According to the five lawmakers, including Rep. Margie Hendriksen, D-Eugene, a 1932 amendment, known as Article XI-D, says any state power authority must be a three-member panel elected from the entire state.

"I believe," said Hendriksen during debate, "that this constitutional provision places a limitation on both the Legislature and the governor, that the people of Oregon have already spoken through XI-D as to how

we are to provide energy development in this state."

The argument is that the two council members must be appointed by the XI-D panel, although that provision never has been activated.

Hendriksen joined five other legislators to ask Attorney General Dave Frohnmayer if a bill allowing the governor to make such appointments violated the constitution. Frohnmayer said it did not.

In an opinion issued March 20, Frohnmayer said XI-D only applies when the state is engaged in activities "related to development of electric energy in a proprietary capacity." This is different than when the state acts in a regulatory sense, he said.

One of the representatives who queried Frohnmayer, Rep. Bill Bradbury, D-Coos County, disagreed with Frohnmayer's

opinion. He released a statement saying Frohnmayer's opinion assumed the only purpose of Article XI-D was to put this state in the development of electric energy in a "proprietary capacity."

"This is incorrect. While this was one of the purposes or possible courses of action, this was not the only purpose of the article," Bradbury said.

Bradbury then cites the Oregon State Grange, which proposed the amendment in 1931. Its writings show the grange wanted public control of all electric energy aspects.

However, Bradbury didn't convince many of his colleagues on the floor. Another representative who questioned Frohnmayer, Rep. Rick Bauman, D-Portland, said XI-D was an issue for another day.

"We cannot sweep the Oregon Constitution under the rug and pretend it doesn't exist. It is there and it must be faced.

"I would hope that in a later vehicle we can address the question of XI-D and the implementation of that article. But right now we need to act so we can reap the best possible benefits from what I believe to be an unfortunate piece of federal legislation."

Rep. Wayne Fawbush, D-Hood River, head of the House Energy Committee, said it was a given that Oregon's participation in a regional act will be challenged in court. But he suggested the votes weren't there to address the issue legislatively.

Bradbury used the legislature to take another shot at the federal act and what he sees as a raw deal for Oregon. The coastal representative complained the legislation requires all Northwest rate payers to pay for nuclear plants in Washington.

"By participating in the power council, we are mortgaging our people for approximately one-third of the cost of those plants. And that cost, which started at \$4.1 billion a few short years ago, is now in excess of \$18 billion."

But proponents of the bill said even if Oregon refuses to participate, Oregon rate payers still will have to pay.

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