

HOUSE BILL REPORT

HB 1690

As Reported By House Committee On:
Environmental Affairs
Revenue

Title: An act relating to implementing the state hazardous waste management plan.

Brief Description: Changing provisions relating to hazardous waste permits.

Sponsors: Representatives Rust, Hansen, Chandler and Bray.

Brief History:

Reported by House Committee on:
Environmental Affairs, February 25, 1993, DPS;
Revenue, March 8, 1993, DPS(ENA).

HOUSE COMMITTEE ON ENVIRONMENTAL AFFAIRS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Rust, Chair; Flemming, Vice Chair; Bray; Foreman; Hansen; Holm; L. Johnson; J. Kohl; Linville; and Sheahan.

Minority Report: Do not pass. Signed by 3 members: Representatives Horn, Ranking Minority Member; Van Luven, Assistant Ranking Minority Member; and Edmondson.

Staff: Harry Reinert (786-7110).

Background: The Resource Conservation and Recovery Act (RCRA) was enacted by Congress in 1976 to govern the management of hazardous waste from the moment it is created to the point at which it is finally disposed -- from "cradle to grave." The Department of Ecology is the state agency with authority to issue permits for hazardous waste management facilities. The Legislature has directed the department to adopt rules allowing for expeditious issuance of permits consistent with the requirements of state and federal law.

In 1983, the Legislature established priorities for the management and regulation of hazardous wastes. Waste reduction is the first priority in the management of hazardous waste. The remaining priorities, in descending

order, are waste recycling, treatment, incineration, solidification or stabilization, and landfill.

The Legislature also directed the Department of Ecology to conduct a study of the best management practices for different categories of waste under the statutory priorities. The solid waste advisory committee was directed to report to the Legislature on policy options to reduce the production of hazardous wastes. The studies must be updated every five years.

In 1985, the Legislature directed the department to prepare a hazardous waste management plan. The plan must include an inventory of existing capacity to manage hazardous wastes, a forecast of future waste generation, a description of the best management practices study, siting criteria and policies, and a public involvement process. The department appointed an advisory committee in 1989. The committee submitted its recommendations to the department in September 1991.

One recommendation from the committee was to separate energy recovery from incineration under the state's hazardous waste management hierarchy. The recommendation was to place this activity higher in the hierarchy.

A second recommendation in the plan was that the department should be authorized to limit the size of incineration and land disposal facilities based on the need for those facilities. The recommendation included a suggestion that the needs assessment be revised periodically and the permitted capacity be modified to meet the changing need. A needs assessment was conducted during the plan's development.

Under existing state law, if the owner and operator of a hazardous waste management facility are not the same, the owner of the property is only required to sign the application and acknowledge general knowledge of the contents of the application. The operator of the facility is responsible for the development of the permit. The United States Environmental Protection Agency has informed the state that this provision violates federal law.

The department currently receives no fees for processing hazardous waste disposal facility permit applications. The department's costs for the permit process are mostly covered by the state toxics control account. There are a significant number of permit applications that are awaiting the department's review.

Summary of Substitute Bill: The hazardous waste management hierarchy is modified to make energy recovery a separate priority, higher in preference than incineration.

The Department of Ecology shall issue a permit for a hazardous waste incinerator or landfill based on the regional need for the facility. The region to be considered consists of Alaska, Idaho, Oregon, and Washington. The department shall conduct a needs assessment after it receives a notice of intent from an applicant for a facility. A draft needs assessment must be issued within 180 days. For applications that have already been submitted to the department, the most recent needs assessment conducted as part of the hazardous waste management plan shall be used by the department.

The needs assessment must be reviewed by the department every five years. If the need for the facility has significantly changed, the department may change the facility's permitted capacity to reflect the change. The department may only modify a facility's operating capacity if to do so would not affect the safe operation of the facility. The department may reduce a facility's operating capacity only if this will not make the facility's operation uneconomical.

If they are not the same, the owner and operator of a hazardous waste management facility shall both be the permit applicant and sign and be responsible for the permit application.

The department shall assess a reasonable fee for review of hazardous waste disposal facility permit applications. The fee shall be based on the department's costs in reviewing permit applications. The fee shall be established by rule. The department shall develop a biennial workload analysis and provide an opportunity for public comment before adopting the rule. The cost of establishing the permit fees shall be paid by the state toxics control account.

Fees collected for permit review shall be deposited in the hazardous waste permit account. Expenditures from the account may only be for hazardous waste permit review. The account is subject to appropriation.

Substitute Bill Compared to Original Bill: The substitute bill adds limits on the authority of the department to modify a permit based on changing need for the facility. The substitute also modifies the provisions governing the establishment of application review fees. It adds the requirement for a workload analysis and public comment on the biennial budget proposal. The substitute also makes the

account subject to appropriation. The original bill did not require appropriation.

The substitute also modifies the provisions concerning responsibility for applications when the owner and operator are separate facilities. The original bill did not include this change.

Fiscal Note: Available.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Limiting the size of a hazardous waste incinerator or landfill to the size needed in this region will assure that pollution prevention remains a priority. If facilities are too large, the cost of incineration or landfiling are likely to remain too low and there will be no economic incentive to reduce the generation of hazardous wastes. A facility designed to be larger than the regional need will serve as a magnet for hazardous wastes from other regions of the country, creating hazards resulting from the transportation of the waste from those areas. The Department of Ecology needs additional resources to process permit applications in a more timely manner.

Testimony Against: Authorizing the department to modify a facility's permitted capacity will result in both technical and safety problems for a facility and will make it difficult to obtain financing to construct a facility. The permit fees provide for no accountability and may result in one permit applicant subsidizing the cost of review of a competitor's application. The bill unfairly changes the rules that those who currently have applications pending with the department believed they would have to follow.

Witnesses: Jim Boldt, Rabanco (con); Jeff Myers, EPIC (with concerns); Harold Clinesmith, Citizens Hazardous Waste Coalition (pro); Bob Schrom, Grant County Farmer (pro); Rich Callahan, Farmer/Exporter (pro); Bob Davis, Concerned Citizens of Royal Slope (pro); Norm Myrick, Citizen (pro); Margie Kelly, Greenpeace (pro); Betty Tabbutt, Washington Environmental Council (pro); Doris Cellarius, Sierra Club (pro); and Larry Ganders, Washington State University (con).

HOUSE COMMITTEE ON REVENUE

Majority Report: The substitute bill by Committee on Environmental Affairs be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives G. Fisher, Chair; Holm, Vice Chair; Foreman,

Ranking Minority Member; Anderson; Brown; Cothorn; Leonard; Morris; Romero; Rust; Talcott; Thibaudeau; and Wang.

Minority Report: Do not pass. Signed by 2 members: Representatives Silver and Van Luven.

Staff: Keitlyn Watson (786-7310).

Summary of Recommendation of Committee on Revenue Compared to Recommendation of Committee on Environmental Affairs: No changes were recommended.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The existence of unnecessarily large hazardous waste facilities in the state will not facilitate waste reduction, which is the state's highest priority. The bill assures that hazardous waste management is based on need. The bill has been developed over a three-year process in which everyone bought off on the bill's provisions. The bill will allow more rapid permit review by the Department of Ecology by allowing the department to charge fees for permit review.

Testimony Against: The language in the bill is too loose and interpretation is unpredictable. There is ample hazardous waste planning already occurring. The sizing provision is not acceptable, particularly given the size and expense of a facility such as an incinerator. The fee provisions must be more explicit in terms of who pays whom, and when fees are paid. Opposition to the entire bill is based primarily on opposition to the needs assessment provision.

Witnesses: Representative Nancy Rust, prime sponsor (pro); Jim Boldt, Rabanco, Inc. (con); Doris Cellarius, Sierra Club (pro); Betty Tabott, Washington Environmental Council (pro); Kris Backes, Association of Washington Business (con - supports prioritization of energy recovery, does not support needs assessment, is neutral on fees); and Tom Eaton, Department of Ecology (pro).