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SENATE BILL 5798

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State of Washington

55th Legislature

1997 Regular Session

By Senators Swecker and Fraser

Read first time 02/12/97. Referred to Committee on Agriculture & Environment.

1 AN ACT Relating to the secondary materials industry; amending RCW  
2 70.95H.005, 70.95H.010, 70.95H.030, 70.95H.040, 70.95H.900, 43.31.545,  
3 and 42.52.080; adding a new chapter to Title 70 RCW; repealing RCW  
4 70.95H.007, 70.95H.020, 70.95H.040, 70.95H.050, and 70.95H.800;  
5 providing an effective date; and declaring an emergency.

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

7 **Sec. 1.** RCW 70.95H.005 and 1991 c 319 s 201 are each amended to  
8 read as follows:

9 (1) The legislature finds that:

10 (a) Recycling conserves energy and landfill space, provides jobs  
11 and valuable feedstock materials to industry, and promotes health and  
12 environmental protection;

13 (b) Seventy-eight percent of the citizens of the state actively  
14 participate in recycling programs and Washington currently has the  
15 highest recycling rate in the nation;

16 (c) The current supply of many recycled commodities far exceeds the  
17 demand for such commodities;

18 (d) Many local governments and private entities cumulatively  
19 affect, and are affected by, the market for recycled commodities but

1 have limited jurisdiction and cannot adequately address the problems of  
2 market development that are complex, wide-ranging, and regional in  
3 nature; and

4 (e) The private sector has the greatest capacity for creating and  
5 expanding markets for recycled commodities, and the development of  
6 private markets for recycled commodities is in the public interest.

7 (2) Based on the state's recycling experience and the findings and  
8 recommendations of the 1996 future of recycling task force, the  
9 legislature further finds that:

10 (a) Washington state has made recycling a long-term strategy for  
11 resource conservation and solid waste management.

12 (b) It is the state's policy to integrate waste reduction with  
13 recycling in carrying out this strategy.

14 (c) Market development for recycled materials is essential to the  
15 success of this strategy, and the state has an on-going role and  
16 commitment in assisting with the development of markets.

17 (d) It ((is therefore)) has been the policy of the state to create  
18 a single entity ((to be)) within the department of community, trade,  
19 and economic development known as the clean Washington center to  
20 develop new, and expand existing, markets for recycled commodities.

21 (e) Markets for many recycled materials in Washington state have  
22 improved in the six years since the center was created. The center has  
23 been effective in developing new markets for recycled commodities and  
24 expanding existing markets.

25 (f) A stable resource base and enhanced funding flexibility are  
26 needed to effectively provide the services necessary to support the  
27 state's strategies and policies over the long term.

28 (3) It is therefore the state's policy to terminate the center and  
29 to provide the publicly funded services necessary to support, in part,  
30 the state's role in market development and business waste reduction  
31 through a contract with a nonprofit corporation established, at least  
32 in part, for this purpose.

33 **Sec. 2.** RCW 70.95H.010 and 1991 c 319 s 203 are each amended to  
34 read as follows:

35 (1) The purpose of the center ((is)) has been to provide or  
36 facilitate business assistance, basic and applied research and  
37 development, marketing, public education, and policy analysis in  
38 furthering the development of markets for recycled products. As used

1 in this chapter, market development consists of public and private  
2 activities that are used to overcome impediments preventing full use of  
3 secondary materials diverted from the waste stream, and that encourage  
4 and expand use of those materials and subsequent products. In  
5 fulfilling this mission the center (~~(shall)~~) has primarily directed its  
6 services to businesses that transform or remanufacture waste materials  
7 into usable or marketable materials or products for use other than  
8 landfill disposal or incineration. The state now intends to contract  
9 for these services with the corporation described in subsection (2) of  
10 this section.

11 (2) A private, nonprofit corporation may be established with the  
12 purpose, at least in part, of providing services under contract with  
13 the state to further the development of markets for recycled materials,  
14 waste reduction, and resource conservation. The services may include,  
15 but are not limited to, business assistance, technical assistance,  
16 basic and applied research and development, marketing, public  
17 education, and policy analysis.

18 (3) For the purposes of this chapter and RCW 43.31.545,  
19 "corporation" means a private, nonprofit corporation formed under  
20 chapter 24.03 RCW, established with the purpose described in subsection  
21 (2) of this section and capable of delivering the services described in  
22 subsection (2) of this section.

23 (4) The department of community, trade, and economic development  
24 continues to be responsible for public policy and planning for  
25 recycling market development and will administer the state contract,  
26 described in RCW 70.95H.030, with the corporation.

27 (5) The state contract permits the corporation to charge fees and  
28 negotiate other revenue-sharing arrangements with clients for services  
29 provided under the state contract in order to recover, at least in  
30 part, the costs of providing services under the contract. Revenue  
31 generated from clients under the state contract must be accounted for  
32 and used by the corporation solely to help cover the cost of future  
33 services under the state contract. Revenue generation is not the  
34 primary intent of the state contract and the department of community,  
35 trade, and economic development, as contract administrator, should not  
36 permit revenue generation to compromise the public purpose of the  
37 services provided under the contract.

1       **Sec. 3.** RCW 70.95H.030 and 1992 c 131 s 2 are each amended to read  
2 as follows:

3       When the center terminates, the state must carry out its role in  
4 recycling market development, in part, by contracting with a  
5 corporation as described in RCW 70.95H.010(2), to provide services.  
6 Until its termination, the center shall:

7       (1) Provide targeted business assistance to recycling businesses,  
8 including:

9       (a) Development of business plans;

10       (b) Market research and planning information;

11       (c) Access to financing programs;

12       (d) Referral and information on market conditions; and

13       (e) Information on new technology and product development;

14       (2) Negotiate voluntary agreements with manufacturers to increase  
15 the use of recycled materials in product development;

16       (3) Support and provide research and development to stimulate and  
17 commercialize new and existing technologies and products using recycled  
18 materials;

19       (4) Undertake an integrated, comprehensive education effort  
20 directed to recycling businesses to promote processing, manufacturing,  
21 and purchase of recycled products, including:

22       (a) Provide information to recycling businesses on the availability  
23 and benefits of using recycled materials;

24       (b) Provide information and referral services on recycled material  
25 markets;

26       (c) Provide information on new research and technologies that may  
27 be used by local businesses and governments; and

28       (d) Participate in projects to demonstrate new market uses or  
29 applications for recycled products;

30       (5) Assist the departments of ecology and general administration in  
31 the development of consistent definitions and standards on recycled  
32 content, product performance, and availability;

33       (6) Undertake studies on the unmet capital needs of reprocessing  
34 and manufacturing firms using recycled materials;

35       (7) Undertake and participate in marketing promotions for the  
36 purposes of achieving expanded market penetration for recycled content  
37 products;

38       (8) Coordinate with the department of ecology to ensure that the  
39 education programs of both are mutually reinforcing, with the center

1 acting as the lead entity with respect to recycling businesses, and the  
2 department as the lead entity with respect to the general public and  
3 retailers;

4 (9) Develop an annual work plan. The plan shall describe actions  
5 and recommendations for developing markets for commodities comprising  
6 a significant percentage of the waste stream and having potential for  
7 use as an industrial or commercial feedstock. The initial plan shall  
8 address, but not be limited to, mixed waste paper, waste tires, yard  
9 and food waste, and plastics; (~~and~~)

10 (10) Represent the state in regional and national market  
11 development issues; and

12 (11) Facilitate and assist in the state's transition to providing  
13 recycling market development and business waste reduction services  
14 through a contract with a private, nonprofit corporation.

15 **Sec. 4.** RCW 70.95H.040 and 1991 c 319 s 206 are each amended to  
16 read as follows:

17 In order to carry out its responsibilities under this chapter, the  
18 center may:

19 (1) Receive such gifts, grants, funds, fees, and endowments, in  
20 trust or otherwise, for the use and benefit of the purposes of the  
21 center. The center may expend the same or any income therefrom  
22 according to the terms of the gifts, grants, or endowments;

23 (2) Initiate, conduct, or contract for studies and searches  
24 relating to market development for recyclable materials, including but  
25 not limited to applied research, technology transfer, and pilot  
26 demonstration projects;

27 (3) Obtain and disseminate information relating to market  
28 development for recyclable materials from other state and local  
29 agencies;

30 (4) Enter into, amend, and terminate contracts with individuals,  
31 corporations, trade associations, and research institutions for the  
32 purposes of this chapter;

33 (5) Provide grants to local governments or other public  
34 institutions to further the development of recycling markets;

35 (6) Provide business and marketing assistance to public and private  
36 sector entities within the state; (~~and~~)

37 (7) Evaluate, analyze, and make recommendations on state policies  
38 that may affect markets for recyclable materials; and

1       (8) Assist in the creation of a corporation.

2       **Sec. 5.** RCW 70.95H.900 and 1991 c 319 s 209 are each amended to  
3 read as follows:

4       The center shall terminate on (~~June 30, 1997~~) December 31, 1997.

5       **Sec. 6.** RCW 43.31.545 and 1991 c 319 s 210 are each amended to  
6 read as follows:

7       (1) The department is the lead state agency to assist in  
8 establishing and improving markets for recyclable materials generated  
9 in the state and in assisting businesses in reducing waste and  
10 conserving resources.

11       (2) The department is authorized to take all steps reasonably  
12 necessary and proper to effect by December 31, 1997, the orderly  
13 termination of the clean Washington center and the state's transition  
14 to providing recycling market development and business waste reduction  
15 services through a contract with a private, nonprofit corporation,  
16 consistent with the purposes of this section, and chapter 70.95H RCW.  
17 This includes, but is not necessarily limited to, the authority to:

18       (a) Assist in the establishment of a corporation, including the  
19 entering into of contracts preparatory to the establishment of a  
20 corporation;

21       (b) Transfer any equipment, software, data bases, other assets, or  
22 contracts for services to a corporation under appropriate terms and  
23 conditions, including reasonable compensation;

24       (c) Unless otherwise provided by agreement, assign to a corporation  
25 any membership agreements, contracts, licenses, and other duties and  
26 obligations that are related to the center; and

27       (d) Assume and discharge any clean Washington center obligations to  
28 the extent authorized by law.

29       (3) Notwithstanding anything to the contrary in chapter 41.06 RCW  
30 or any other provision of law, the department shall contract with a  
31 corporation to provide or facilitate business assistance, technical  
32 assistance, basic and applied research and development and may contract  
33 with the corporation to provide or facilitate public education and  
34 policy analysis, to further recycled materials market development, and  
35 may contract with the corporation to assist businesses in waste  
36 reduction, and resource conservation in Washington state.

1       (4) A contract entered into under subsection (3) of this section  
2 must provide for the department to review at least biennially the  
3 corporation's performance under the contract. The review must include,  
4 but is not limited to, consideration of the corporation's fees charged  
5 for services provided under this section and this chapter, and the  
6 extent to which the corporation's performance generally has helped the  
7 state to fulfill the purposes of this section and this chapter. The  
8 department may terminate, or elect not to renew, a contract with the  
9 corporation if the department finds that the corporation has performed  
10 unsatisfactorily or has failed to cure a breach of a material term of  
11 the contract in a timely manner. All moneys for contracts entered into  
12 under subsection (3) of this section are subject to appropriation.

13       **Sec. 7.** RCW 42.52.080 and 1994 c 154 s 108 are each amended to  
14 read as follows:

15       (1) No former state officer or state employee may, within a period  
16 of one year from the date of termination of state employment, accept  
17 employment or receive compensation from an employer if:

18       (a) The officer or employee, during the two years immediately  
19 preceding termination of state employment, was engaged in the  
20 negotiation or administration on behalf of the state or agency of one  
21 or more contracts with that employer and was in a position to make  
22 discretionary decisions affecting the outcome of such negotiation or  
23 the nature of such administration;

24       (b) Such a contract or contracts have a total value of more than  
25 ten thousand dollars; and

26       (c) The duties of the employment with the employer or the  
27 activities for which the compensation would be received include  
28 fulfilling or implementing, in whole or in part, the provisions of such  
29 a contract or contracts or include the supervision or control of  
30 actions taken to fulfill or implement, in whole or in part, the  
31 provisions of such a contract or contracts. This subsection shall not  
32 be construed to prohibit a state officer or state employee from  
33 accepting employment with a state employee organization.

34       (2) No person who has served as a state officer or state employee  
35 may, within a period of two years following the termination of state  
36 employment, have a direct or indirect beneficial interest in a contract  
37 or grant that was expressly authorized or funded by specific

1 legislative or executive action in which the former state officer or  
2 state employee participated.

3 (3) No former state officer or state employee may accept an offer  
4 of employment or receive compensation from an employer if the officer  
5 or employee knows or has reason to believe that the offer of employment  
6 or compensation was intended, in whole or in part, directly or  
7 indirectly, to influence the officer or employee or as compensation or  
8 reward for the performance or nonperformance of a duty by the officer  
9 or employee during the course of state employment.

10 (4) No former state officer or state employee may accept an offer  
11 of employment or receive compensation from an employer if the  
12 circumstances would lead a reasonable person to believe the offer has  
13 been made, or compensation given, for the purpose of influencing the  
14 performance or nonperformance of duties by the officer or employee  
15 during the course of state employment.

16 (5) No former state officer or state employee may at any time  
17 subsequent to his or her state employment assist another person,  
18 whether or not for compensation, in any transaction involving the state  
19 in which the former state officer or state employee at any time  
20 participated during state employment. This subsection shall not be  
21 construed to prohibit any employee or officer of a state employee  
22 organization from rendering assistance to state officers or state  
23 employees in the course of employee organization business.

24 (6) As used in this section, "employer" means a person as defined  
25 in RCW 42.52.010 or any other entity or business that the person owns  
26 or in which the person has a controlling interest. For purposes of  
27 subsection (1)(a) of this section, the term "employer" does not include  
28 "corporation."

29 NEW SECTION. Sec. 8. The following acts or parts of acts, as now  
30 existing or hereafter amended, are each repealed, effective January 1,  
31 1998:

32 (1) RCW 70.95H.007 and 1995 c 399 s 192 & 1991 c 319 s 202;

33 (2) RCW 70.95H.020 and 1995 c 399 s 193 & 1991 c 319 s 204;

34 (3) RCW 70.95H.040 and 1997 c . . . s 4 (section 4 of this act) &  
35 1991 c 319 s 206;

36 (4) RCW 70.95H.050 and 1995 c 399 s 194 & 1991 c 319 s 207; and

37 (5) RCW 70.95H.800 and 1991 c 319 s 212.



1        NEW SECTION.    **Sec. 9.**    Waste reduction and recycling are the  
2 state's preferred solid waste management strategies and highest  
3 priorities for the collection, handling, and management of solid waste.  
4 The legislature finds that it cannot effectively carry out its  
5 regulatory program of waste reduction and recycling without financial  
6 contributions by those who create the need for, and share in the  
7 benefits of, that program. The purpose of this chapter is to assure  
8 that this contribution occurs in an effective, fair, and equitable way.

9        NEW SECTION.    **Sec. 10.**    (1) There is imposed on each person using  
10 the services of a solid waste collection business or municipal  
11 collection service, a solid waste collection fee of one-half of one  
12 percent of the consideration charged for the services.

13        (2) Money received by the state under subsection (1) of this  
14 section must be deposited in the recycling and waste prevention account  
15 created under section 13 of this act.

16        (3) The person collecting the charges made for using the solid  
17 waste collection business must collect the fee imposed in this section.

18        (4) To prevent pyramiding, the fee imposed in this chapter does not  
19 apply to a solid waste collection business using the services of  
20 another solid waste collection business for the transfer, storage,  
21 processing, or disposal of the waste collected during the transaction.  
22 To be eligible for this exemption, a person first must be certified by  
23 the department of revenue as a solid waste collection business.

24        (5) The fee imposed in this section does not apply to any agency,  
25 division, or branch of the federal government or to services rendered  
26 under a contract therewith.

27        NEW SECTION.    **Sec. 11.**    The department of revenue may adopt rules  
28 under chapter 34.05 RCW to enforce the provisions of this chapter.

29        NEW SECTION.    **Sec. 12.**    For purposes of this chapter, "solid waste  
30 collection business" means every person who receives solid waste for  
31 transfer, storage, or disposal including, but not limited to, all  
32 collection services, public or private landfills or waste incinerators,  
33 transfer stations, and similar operations.

34        NEW SECTION.    **Sec. 13.**    The recycling and waste prevention account  
35 is created in the state treasury. All receipts from section 10 of this

1 act must be deposited into the account. Moneys in the account may only  
2 be spent after appropriation. Expenditures from the account may only  
3 be used to:

4 (1) Provide technical and financial assistance to local governments  
5 in developing and implementing recycling and waste reduction plans and  
6 programs;

7 (2) Develop markets for recycled materials and assist businesses  
8 with waste reduction, resource conservation, and designing for  
9 recycling;

10 (3) Conduct evaluations, assessments, research, and studies needed  
11 to support the state's recycling and waste reduction goals;

12 (4) Provide state coordination, planning, and policy development  
13 for recycling and waste reduction;

14 (5) Conduct research and studies to assess the efficiency of  
15 existing collection and processing technologies, the feasibility of new  
16 technologies, and other recycling and waste reduction activities to  
17 carry out the purposes of chapter 70.95 RCW; and

18 (6) Administer and collect the fee imposed in this chapter.

19 NEW SECTION. **Sec. 14.** Sections 9 through 13 of this act  
20 constitute a new chapter in Title 70 RCW.

21 NEW SECTION. **Sec. 15.** This act is necessary for the immediate  
22 preservation of the public peace, health, or safety, or support of the  
23 state government and its existing public institutions, and takes effect  
24 June 15, 1997.

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