
**Technology, Energy &
Communications Committee**

HB 1474

Brief Description: Clarifying Initiative 297.

Sponsors: Representatives B. Sullivan, Nixon, Schual-Berke, Jarrett, O'Brien, Dickerson, Upthegrove, Eickmeyer, Hinkle, Quall, McIntire, Tom, Appleton, Hunt, Moeller, Simpson, Grant, Hunter, Kilmer and Chase.

Brief Summary of Bill

- Makes findings regarding the intent of Initiative 297.
- Clarifies the definitions of "mixed waste" and "mixed radioactive and hazardous waste."
- Provides that new land disposal facilities may be permitted to accomplish the closure, remediation, or cleanup of facilities or units at a site.
- Provides that the Department of Ecology will implement Initiative 297's policy.
- Adds a severability clause.

Hearing Date: 2/11/05

Staff: Sarah Dylag (786-7109).

Background:

Initiative 297, known as the Cleanup Priority Act (Act), approved by the voters on November 2, 2004, prohibits additional mixed radioactive and hazardous waste from being brought to sites, such as the Hanford Nuclear reservation, until the existing on-site waste conforms to all state and federal environmental laws. New requirements were established for sites and facilities that handle mixed radioactive and hazardous waste. The Act also increased grant funding to help the public and local governments evaluate permit, closure, and cleanup decisions and to review funding priorities.

On December 1, 2004, the federal government filed a complaint in Federal District Court seeking to have the Act declared invalid on a number of grounds, including that it is discriminatory under the Commerce Clause, that it is in violation of the Supremacy Clause, and that the United States has not waived sovereign immunity as it relates to the control of hazardous or solid waste.

As part of its response to the federal government's challenge, the state requested the federal court to refer questions of interpretation to the Washington State Supreme Court. The Federal District Court, on February 8, 2005, referred several questions of the Act's interpretation to the Washington Supreme Court.

Summary of Bill:

Findings

In relation to Initiative 297, the Legislature makes the following findings:

- The cleanup of contamination is the top priority at sites with hazardous or mixed waste contamination.
- Adding more wastes to sites with mixed radioactive and hazardous wastes where there have been releases into the environment detracts from the cleanup and from the work needed to bring wastes into compliance.
- Congress has clearly granted the state the authority to adopt and enforce state and federal laws relating to the cleanup of wastes.
- The act is consistent with limitations of the federal law.

The Legislature also finds and clarifies that the act did not intend:

- to prevent the movement of waste from one facility or unit within a site to another as part of the approved cleanup;
- to increase the universe of substances that are subject to regulation by the state as hazardous or mixed wastes; and
- to regulate radioactive materials, medical isotopes, other radioactive substances, or facilities exclusively regulated by the United States pursuant to the Federal Atomic Energy Act.

Definitions

The terms "mixed waste" or "mixed radioactive and hazardous waste" are clarified. A new exclusion is added to the definition to ensure medical isotopes and materials are not included. The definition also does not include waste or facilities regulated under the Federal Atomic Energy Act.

The "mixed waste surcharge" definition is clarified. The surcharge is not assessed on the basis of budgets for a facility or site where such funding, or portion thereof, is not appropriated.

New Facilities

New land disposal facilities may be permitted by the department to accomplish the closure, remediation, or cleanup of facilities or units at a site, if there are releases or suspected releases of hazardous substances at the site that are not investigated and being controlled under current law. These new facilities may only have a disposal capacity that is necessary to accomplish the closure, remediation, or cleanup at that site.

Intent

The intent of the Act is restated. The Department of Ecology is directed to implement the Act's policy under the authorities granted in the Hazardous Waste Management Act, the Model Toxics

Control Act, and the State Environmental Policy Act. The department must adopt rules to implement this intent.

Miscellaneous

A severability clause is added.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.