

HOUSE BILL REPORT

SHB 2873

*As Passed House
February 18, 1992*

Title: An act relating to financial assurance.

Brief Description: Requiring financial assurance for the disposal of radioactive waste.

Sponsor(s): By House Committee on Energy & Utilities (originally sponsored by Representatives Grant, May and Rayburn).

Brief History:

Reported by House Committee on:
Energy & Utilities, February 7, 1992, DPS;
Passed House, February 18, 1992, 98-0.

**HOUSE COMMITTEE ON
ENERGY & UTILITIES**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 11 members: Representatives Grant, Chair; H. Myers, Vice Chair; May, Ranking Minority Member; Hochstatter, Assistant Ranking Minority Member; Bray; Casada; Cooper; R. Fisher; Jacobsen; Miller; and Rayburn.

Staff: Fred Adair (786-7113).

Background: 1986 legislation called for the low-level radioactive waste disposal site operator and site users to carry liability insurance and to hold harmless the state of Washington for any damages in connection with the site. The Department of Ecology (WDOE) was also directed to review the risks of waste disposal activities and set appropriate amounts of insurance coverage. Similar responsibilities were given to the Radiation Control Office (Department of Health (DOH)) and the Utilities and Transportation Commission.

WDOE reviewed the insurance market and found that liability coverage was prohibitively expensive. Consequently, some portions of statute were not being enforced. An attempt was made in 1990 to clarify the insurance requirements, and also to spread the requirement of holding the state harmless to a

wider range of entities using radioactive materials. Further confusion within the industry ensued.

To clarify the situation, in 1991 the Legislature directed the Department of General Administration (Risk Management Division), assisted by WDOE and DOH, to analyze risks and insurance requirements.

The agencies concluded that the risk in the use of low-level radioactive materials and the possibility of exposing the public to injury or causing damage to their property is very low. The state's tort liability exposure arising out of its low-level radioactive materials licensing activities is also very minimal. Accordingly, the agencies could not justify requiring radioactive materials licensees to pay high premiums to purchase insurance to protect against low risk events.

Principal agency recommendations were that holders of radioactive materials' state licenses not be required to indemnify the state for their activities, that disposal site permit holders continue to execute an indemnity agreement, that insurance coverage requirements be an exception rather than the norm, and that WDOE and DOH be given discretion in specifying insurance requirements.

Summary of Bill: Overlapping financial assurance determination responsibilities between WDOE and DOH are eliminated. WDOE purview is limited to the waste disposal site operator and site use permittees. DOH makes determinations for radioactive material holder licensees.

Throughout, the term "financial assurance" is substituted for other liability provisions in order to be current and to allow as much flexibility as possible for affected parties to meet liability requirements.

WDOE shall complete another financial assurance level review and determination by December 1, 1994.

Assurance level determination guidance for DOH is revised to incorporate provisions used by the U.S. Nuclear Regulatory Commission.

License holders may be required to have and to demonstrate financial assurances, but are no longer expressly required to indemnify and hold harmless the state from claims. Provisions which allow WDOE and DOH to exempt certain permittees or license holders from financial assurance requirements are deleted because imposition of these provisions is at the discretion of the departments.

Fiscal Note: Not requested.

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

Testimony For: The bill will eliminate costly insurance requirements, and in some cases, requirements for insurance that is unavailable. This is especially the case for holders of only small amounts of radioactive material. Risks are very low. The bill incorporates the recommendations of the task force convened by the Legislature, especially with the first amendment ("shall" to "may").

DOH and WDOE had some concern that the third amendment might eliminate some assurance needs, but revision of the amendment appeared to allay the concern.

Testimony Against: Handling and transportation of radioactive materials is very dangerous and risky.

Witnesses: Robb Menaul, Washington State Hospital Association (pro); David Allison, Heart of America Northwest (con); Barry Bede, U.S. Ecology, Inc. (pro); and Terry Frazee, Department of Health (pro).