

HOUSE BILL REPORT

ESSB 5756

*As Passed House
April 19, 1991*

Title: An act relating to low-level waste sites.

Brief Description: Providing rate regulation for low-level waste sites.

Sponsor(s): Senate Committee on Energy & Utilities (originally sponsored by Senators Hayner, Jesernig and Thorsness; by request of Utilities & Transportation Commission).

Brief History:

Reported by House Committee on:
Energy & Utilities, April 4, 1991, DPA;
Passed House, April 19, 1991, 97-0.

**HOUSE COMMITTEE ON
ENERGY & UTILITIES**

Majority Report: *Do pass as amended.* Signed by 7 members: Representatives Grant, Chair; H. Myers, Vice Chair; Bray; Cooper; R. Fisher; Jacobsen; and Rayburn.

Minority Report: *Do not pass.* Signed by 4 members: Representatives May, Ranking Minority Member; Hochstatter, Assistant Ranking Minority Member; Casada; and Miller.

Staff: Fred Adair (786-7113).

Background: Federal law assigns responsibility for disposal of low-level radioactive wastes to states. States may group into regional compacts. After January 1, 1993, states or regional compacts may refuse to accept low-level radioactive waste generated outside the state or region.

Washington is a member of the seven-state Northwest Compact.

There will be only one disposal site in the Northwest region. If waste cannot come in from the outside and if those generating waste inside the region do not have the option of sending their waste outside the region, there could be a monopoly situation. Recognizing this, the Utilities and Transportation Commission (UTC) was asked by

the Legislature last year to study the need for regulation and suitable methods of regulation.

The study recommended a modified form of price cap regulation. An initially-determined cap would be modified for inflation and differing volumes of disposed waste. There would be a special formula for determining rates in event of abnormally large single-event disposals.

Because of its location on the Hanford Reservation, a federal facility, the site operator is not subject to as much taxation as are comparable businesses not on the Hanford Reservation. Also, there has been controversy over the basis for the state leasehold tax.

Summary of Bill: The rates for disposal of low-level radioactive waste shall be regulated when there is a monopoly. A motion by the UTC or an interested party can initiate notice and a hearing as to whether a monopoly exists or will exist as of January 1, 1993. Monopoly determinants are whether there are sites operated by more than one company and whether competitive disposal rates are available at other than the Hanford site. Regulated rates will be determined as explained below and will be effective if a monopoly is found by the UTC to exist.

The UTC shall establish rates to be charged by low-level radioactive waste disposal site operators. The UTC is given necessary powers to enable it to determine fair, just, reasonable, and sufficient rates.

By March 1, 1992, the site operator shall request the UTC to determine an initial maximum disposal rate. The determination shall be done by January 1, 1993. The UTC by then shall also determine the factors necessary to calculate the inflation, volume, and extraordinary volume adjustments and shall prescribe an administrative fee.

The maximum disposal rate shall be revised semiannually by inflation and volume adjustments. Situational adjustments may be made due to changes in government fees, factors outside the control of the site operator, and on petition of the site operator.

The site operator and waste generators may contract for a disposal rate less than the maximum disposal rate. There cannot be discrimination between generators receiving like and contemporaneous services under substantially similar circumstances.

A special formula is prescribed for rates in the event of delivery of an extraordinary volume of waste.

An interested person or the UTC may complain that rates are not proper, but the burden of proof is with the complainant. The UTC shall encourage simpler dispute resolution forums.

By May 1, 1992, the site operator shall give the UTC a statement on which to determine the administrative fee and then pay the fee. The fee should just cover the UTC regulatory costs and be placed in the Public Service Revolving Fund. The UTC can adjust the fees.

The site operator may be classified competitive on a finding that there is competition and thereby become exempt from regulation. Reclassification can occur if competition fades.

Nothing in this act shall affect the jurisdiction of another state agency.

The site operator's business and occupation tax lowers to 10 percent on the date the bill is enacted, to 5 percent on January 1, 1992, and to 3 percent on July 1, 1993.

A fee, or surcharge, of \$6.50 per cubic foot of disposed waste is established on January 1, 1993. In 1993, the entire amount goes to Benton County. In 1994, \$3.25 per cubic foot goes to Benton County. In 1995 and thereafter, \$2 per cubic foot goes to Benton County. The Hanford Area Economic Investment Fund is created and remaining portions of the fee go to this fund.

The Hanford Area Economic Investment Fund Committee is created. The fund shall be used only as recommended by the committee and approved by the director, Department of Trade and Economic Development. "Hanford Area" is defined as Benton and Franklin counties.

The fee is invalidated if before January 1, 1993 the State imposes new fees or raises existing fees pertaining to the disposal of low-level radioactive waste.

Taxable rent for determining the amount of state leasehold tax shall be delineated in the sublease agreement between the State and the disposal site operator.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause; one section takes effect immediately, 15 sections take effect July 1, 1991, and the remaining seven sections take effect January 1, 1993.

Testimony For: All agree on the need for the bill to protect against a monopoly situation, reduce the company's business and occupation tax rate in exchange for agreeing to be regulated if a monopoly situation exists, and for some local area financial compensation.

Differences on factors determining a monopoly have been worked out, but negotiations are still ongoing on local area compensation.

Benton County has suffered through a number of depressed years. This stems both from a downturn of Hanford Reservation activities and the fact that activities on the Hanford Reservation are not taxed the same as activities outside the reservation. Also, there is a stigma to the radioactive waste disposal which discourages some economic development. Funding is needed to overcome these economically depressing factors.

Testimony Against: None.

Witnesses: Senator Hayner, prime sponsor; Barry Bede, U.S. Ecology; and Peter Berney, Benton County Deputy Prosecuting Attorney.