

SENATE BILL REPORT

SB 5645

AS REPORTED BY COMMITTEE ON ENERGY & UTILITIES, MARCH 5, 1991

Brief Description: Changing liability of handlers of low-level waste.

SPONSORS: Senators Thorsness and Williams.

SENATE COMMITTEE ON ENERGY & UTILITIES

Majority Report: That Substitute Senate Bill No. 5645 be substituted therefor, and the substitute bill do pass.

Signed by Senators Thorsness, Chairman; Saling, Vice Chairman; Jesernig, Nelson, Patterson, Roach, Stratton, Sutherland, and Williams.

Staff: Dave Monthie (786-7198)

Hearing Dates: February 21, 1991; March 5, 1991

BACKGROUND:

Persons handling low-level radioactive materials in Washington must receive permits or licenses from various state agencies. The Department of Ecology requires an annual permit from those who dispose of low-level radioactive waste at the low-level site at Hanford. The Department of Ecology licenses persons or entities that handle radioactive materials, such as hospitals, industrial radiographers, and manufacturers. The Utilities and Transportation Commission and the State Patrol regulate the transportation of materials on the state's roads and highways.

Legislation enacted in 1986 required firms with state licenses or permits for packaging, shipping, transporting, treating, storing, or disposing of commercial low-level nuclear materials to bear the risk of potential injury or damage from accidents involving the release of any radioactive materials by (1) holding the state harmless from injuries or damage, and (2) maintaining liability insurance in an amount to be determined by the Department of Ecology. The same legislation required persons applying for such licenses or permits to demonstrate compliance with the insurance requirements, and required the Departments of Ecology and Health to suspend the license of any person failing to demonstrate the required insurance.

Subsequent to enactment of the 1986 legislation, the Department of Ecology provided reports to the Legislature indicating that no separate insurance should be required under these provisions of law because existing general liability coverage for such persons was adequate, or it was already required under other statutes (e.g., the federal Motor Carrier

Act), or insurance was either unavailable or too costly, or the risk of harm was not significant enough to require insurance.

In response to this additional information, the Legislature in 1990 made the statutory requirements with regard to the insurance requirement permissive, based on each agency's judgment as to the need. The Departments of Ecology and Health were given separate and parallel authority to adopt insurance requirements, and to exempt categories of licensees and permittees. Each agency was also required to report to the Legislature by December, 1990 on methods by which licensees and permittees who are otherwise unable to obtain liability coverage may obtain such coverage. Testimony on those reports indicated some problems in obtaining compliance with the existing requirements.

SUMMARY:

The requirement that the persons holding or applying for a permit or license from the Department of Ecology or the Department of Health indemnify and hold the state harmless from claims or damages is limited to the acts or omissions of the person or the person's agents or employees. Both agencies are required to refuse to issue the permit or license to any person who fails to comply with either the requirement to indemnify and hold the state harmless, or with any insurance requirement imposed on them by either agency.

EFFECT OF PROPOSED SUBSTITUTE:

The substantive requirements are deleted. A task force on low-level radioactive materials is created consisting of the Departments of General Administration, Ecology, Health, the UTC, and the Washington State Patrol. The Department of General Administration is the lead agency. The task force is to utilize a working group encompassing all those involved in the handling of low-level radioactive materials. The task force is to report to the Energy and Utilities Committees of both houses on its findings and recommendations as to liability insurance for the state's licensees and permittees, and an assessment of the risk and risk management for the state with regard to damages arising out of the activities of the licensees, including requirements for indemnifying and holding the state harmless.

Appropriation: none

Revenue: none

Fiscal Note: requested February 19, 1991

TESTIMONY FOR:

Changes need to be made to address the unavailability, or high cost of, liability insurance.

TESTIMONY AGAINST:

The bill does not address the real issues of insurance and liability.

TESTIFIED: Terry Strong, DOH; Terry Husseman, DOE; Pat Murphie, PM Testing Lab; Robb Menaul, WA State Hospital Assoc.; Bruce Pickett, Boeing Co.