
SENATE BILL 6357

State of Washington

52nd Legislature

1992 Regular Session

By Senator Metcalf

Read first time 01/27/92. Referred to Committee on Environment & Natural Resources.

1 AN ACT Relating to technical corrections to solid waste and
2 recycling laws; amending RCW 70.95G.020, 70.95H.030, and 36.58.090; and
3 reenacting and amending RCW 36.58.040.

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

5 **Sec. 1.** RCW 70.95G.020 and 1991 c 319 s 108 are each amended to
6 read as follows:

7 The sum of the concentration levels of lead, cadmium, mercury, and
8 hexavalent chromium present in any ~~((product,))~~ package~~((,))~~ or
9 packaging component shall not exceed the following:

10 (1) Six hundred parts per million by weight effective July 1, 1993;

11 (2) Two hundred fifty parts per million by weight effective July 1,
12 1994; and

13 (3) One hundred parts per million by weight effective July 1, 1995
14 ~~((after May 21, 1991)).~~

1 This section shall apply only to lead, cadmium, mercury, and
2 hexavalent chromium that has been intentionally introduced as an
3 element during manufacturing or distribution.

4 **Sec. 2.** RCW 70.95H.030 and 1991 c 319 s 205 are each amended to
5 read as follows:

6 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;

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

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

6 (7) Undertake and (~~participating~~) participate in marketing
7 promotions for the purposes of achieving expanded market penetration
8 for recycled content products;

9 (8) Coordinate with the department of ecology to ensure that the
10 education programs of both are mutually reinforcing, with the center
11 acting as the lead entity with respect to recycling businesses, and the
12 department as the lead entity with respect to the general public and
13 retailers;

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

20 (10) Represent the state in regional and national market
21 development issues.

22 **Sec. 3.** RCW 36.58.040 and 1989 c 431 s 28 and 1989 c 399 s 9 are
23 each reenacted and amended to read as follows:

24 The legislative authority of a county may by ordinance provide for
25 the establishment of a system or systems of solid waste handling for
26 all unincorporated areas of the county or for portions thereof. A
27 county may designate a disposal site or sites for all solid waste
28 collected in the unincorporated areas pursuant to the provisions of a
29 comprehensive solid waste plan adopted pursuant to chapter 70.95 RCW.

1 However for any solid waste collected by a private hauler operating
2 under a certificate granted by the Washington utilities and
3 transportation commission under the provisions of chapter 81.77 RCW and
4 which certificate is for collection in a geographic area lying in more
5 than one county, such designation of disposal sites shall be pursuant
6 to an interlocal agreement between the involved counties.

7 A county may construct, lease, purchase, acquire, add to, alter, or
8 extend solid waste handling systems, plants, sites, or other facilities
9 and shall have full jurisdiction and authority to manage, regulate,
10 maintain, utilize, operate, control, and establish the rates and
11 charges for those solid waste handling systems, plants, sites, or other
12 facilities. A county may enter into agreements with public or private
13 parties to: (1) Construct, purchase, acquire, lease, add to, alter,
14 extend, maintain, manage, utilize, or operate publicly or privately
15 owned or operated solid waste handling systems, plants, sites, or other
16 facilities; (2) establish rates and charges for those systems, plants,
17 sites, or other facilities; (3) designate particular publicly or
18 privately owned or operated systems, plants, sites, or other facilities
19 as disposal sites; (4) process, treat, or convert solid waste into
20 other valuable or useful materials or products; and (5) sell the
21 material or products of those systems, plants, or other facilities.

22 The legislative authority of a county may award contracts for solid
23 waste handling that provide that a county provide for a minimum
24 periodic fee or other method of compensation in consideration of the
25 operational availability of those solid waste handling systems, plants,
26 sites, or other facilities at a specified minimum level, without regard
27 to the ownership of the systems, plants, sites or other facilities, or
28 the amount of solid waste actually handled during all or any part of
29 the contract. When a minimum level of solid waste is specified in a
30 contract entered into under this section, there shall be a specific

1 allocation of financial responsibility in the event the amount of solid
2 waste handled falls below the minimum level provided in the contract.
3 Solid waste handling systems, plants, sites, or other facilities
4 constructed, purchased, acquired, leased, added to, altered, extended,
5 maintained, managed, utilized, or operated pursuant to this section,
6 whether publicly or privately owned, shall be in substantial compliance
7 with the solid waste management plan applicable to the county adopted
8 pursuant to chapter 70.95 RCW. Agreements relating to such solid waste
9 handling systems, plans, sites, or other facilities may be for such
10 term and may contain such covenants, conditions, and remedies as the
11 legislative authority of the county may deem necessary or appropriate.

12 As used in this chapter, the terms "solid waste" and "solid waste
13 handling" shall be as defined in RCW 70.95.030.

14 The legislative authority of a county may:

15 (1) By ordinance award a contract to collect source separated
16 recyclable materials from residences within unincorporated areas. The
17 legislative authority has complete authority to manage, regulate, and
18 fix the price of the source separated recyclable collection service.
19 The contracts may provide that the county pay minimum periodic fees to
20 a municipal entity or permit holder; or

21 (2) Notify the commission in writing to carry out and implement the
22 provisions of the waste reduction and recycling element of the
23 comprehensive solid waste management plan.

24 This election may be made by counties at any time after July 23,
25 1989. An initial election must be made no later than ninety days
26 following approval of the local comprehensive waste management plan
27 required by RCW 70.95.090.

28 Nothing in this section shall be construed to authorize the
29 operation of a solid waste collection system by counties or to

1 authorize counties to affect the authority of the utilities and
2 transportation commission under RCW 81.77.020.

3 ~~((The alternative selection process provided by this section may
4 not be used in the selection of a person or entity to construct a
5 publicly owned facility for the storage or transfer of solid waste or
6 solid waste handling equipment unless the facility is either (a)
7 privately operated pursuant to a contract greater than five years, or
8 (b) an integral part of a solid waste processing facility located on
9 the same site. Instead, the applicable provisions of RCW 36.32.250,
10 and chapters 39.04 and 39.30 RCW shall be followed.))~~

11 **Sec. 4.** RCW 36.58.090 and 1989 c 399 s 10 are each amended to read
12 as follows:

13 (1) Notwithstanding the provisions of any county charter or any law
14 to the contrary, and in addition to any other authority provided by
15 law, the legislative authority of a county may contract with one or
16 more vendors for one or more of the design, construction, or operation
17 of, or other service related to, the solid waste handling systems,
18 plants, sites, or other facilities in accordance with the procedures
19 set forth in this section. When a contract for design services is
20 entered into separately from other services permitted under this
21 section, procurement shall be in accord with chapter 39.80 RCW. For
22 the purpose of this chapter, the term "legislative authority" shall
23 mean the board of county commissioners or, in the case of a home rule
24 charter county, the official, officials, or public body designated by
25 the charter to perform the functions authorized therein.

26 (2) If the legislative authority of the county decides to proceed
27 with the consideration of qualifications or proposals for services from
28 vendors, the county shall publish notice of its requirements and
29 request submission of qualifications statements or proposals. The

1 notice shall be published in the official newspaper of the county at
2 least once a week for two weeks not less than sixty days before the
3 final date for the submission of qualifications statements or
4 proposals. The notice shall state in summary form (a) the general
5 scope and nature of the design, construction, operation, or other
6 service, (b) the name and address of a representative of the county who
7 can provide further details, (c) the final date for the submission of
8 qualifications statements or proposals, (d) an estimated schedule for
9 the consideration of qualifications, the selection of vendors, and the
10 negotiation of a contract or contracts for services, (e) the location
11 at which a copy of any request for qualifications or request for
12 proposals will be made available, and (f) the criteria established by
13 the legislative authority to select a vendor or vendors, which may
14 include but shall not be limited to the vendor's prior experience,
15 including design, construction, or operation of other similar
16 facilities; respondent's management capability, schedule availability
17 and financial resources; cost of the services, nature of facility
18 design proposed by the vendor; system reliability; performance
19 standards required for the facilities; compatibility with existing
20 service facilities operated by the public body or other providers of
21 service to the public; project performance guarantees; penalty and
22 other enforcement provisions; environmental protection measures to be
23 used; consistency with the applicable comprehensive solid waste
24 management plan; and allocation of project risks.

25 (3) If the legislative authority of the county decides to proceed
26 with the consideration of qualifications or proposals, it may designate
27 a representative to evaluate the vendors who submitted qualifications
28 statements or proposals and conduct discussions regarding
29 qualifications or proposals with one or more vendors. The legislative
30 authority or representative may request submission of qualifications

1 statements and may later request more detailed proposals from one or
2 more vendors who have submitted qualifications statements, or the
3 representative may request detailed proposals without having first
4 received and evaluated qualifications statements. The representative
5 shall evaluate the qualifications or proposals, as applicable. If two
6 or more vendors submit qualifications or proposals that meet the
7 criteria established by the legislative authority of the county,
8 discussions and interviews shall be held with at least two vendors.
9 Any revisions to a request for qualifications or request for proposals
10 shall be made available to all vendors then under consideration by the
11 city or town and shall be made available to any other person who has
12 requested receipt of that information.

13 (4) Based on criteria established by the legislative authority of
14 the county, the representative shall recommend to the legislative
15 authority a vendor or vendors that are initially determined to be the
16 best qualified to provide one or more of the design, construction, or
17 operation of, or other service related to, the proposed project or
18 services. The legislative authority may select one or more qualified
19 vendors for one or more of the design, construction, or operation of,
20 or other service related to, the proposed project or services.

21 (5) The legislative authority or its representative may attempt to
22 negotiate a contract with the vendor or vendors selected for one or
23 more of the design, construction, or operation of, or other service
24 related to, the proposed project or services on terms that the
25 legislative authority determines to be fair and reasonable and in the
26 best interest of the county. If the legislative authority or its
27 representative is unable to negotiate such a contract with any one or
28 more of the vendors first selected on terms that it determines to be
29 fair and reasonable and in the best interest of the county,
30 negotiations with any one or more of the vendors shall be terminated or

1 suspended and another qualified vendor or vendors may be selected in
2 accordance with the procedures set forth in this section. If the
3 legislative authority decides to continue the process of selection,
4 negotiations shall continue with a qualified vendor or vendors in
5 accordance with this section at the sole discretion of the legislative
6 authority until an agreement is reached with one or more qualified
7 vendors, or the process is terminated by the legislative authority.
8 The process may be repeated until an agreement is reached.

9 (6) Prior to entering into a contract with a vendor, the
10 legislative authority of the county shall make written findings, after
11 holding a public hearing on the proposal, that it is in the public
12 interest to enter into the contract, that the contract is financially
13 sound, and that it is advantageous for the county to use this method
14 for awarding contracts compared to other methods.

15 (7) Each contract shall include a project performance bond or bonds
16 or other security by the vendor that in the judgment of the legislative
17 authority of the county is sufficient to secure adequate performance by
18 the vendor.

19 (8) The provisions of chapters 39.12, 39.19, and 39.25 RCW shall
20 apply to a contract entered into under this section to the same extent
21 as if the systems and plants were owned by a public body.

22 (9) The vendor selection process permitted by this section shall be
23 supplemental to and shall not be construed as a repeal of or limitation
24 on any other authority granted by law.

25 (10) The alternative selection process provided by this section may
26 not be used in the selection of a person or entity to construct a
27 publicly owned facility for the storage or transfer of solid waste or
28 solid waste handling equipment unless the facility is either (a)
29 privately operated pursuant to a contract greater than five years, or
30 (b) an integral part of a solid waste processing facility located on

1 the same site. Instead, the applicable provisions of RCW 36.32.250 and
2 chapters 39.04 and 39.30 RCW shall be followed.