

ending June 30, 1985, the amount of fourteen million five hundred thousand dollars to carry out the purposes of this act.

Passed the House April 26, 1983.

Passed the Senate May 5, 1983.

Approved by the Governor May 13, 1983.

Filed in Office of Secretary of State May 13, 1983.

CHAPTER 19

[Reengrossed Substitute Senate Bill No. 3273]

RADIOACTIVE WASTE REGULATION—DEPARTMENT OF ECOLOGY AUTHORITY—NUCLEAR WASTE POLICY AND REVIEW BOARD— ADVISORY COUNCIL

AN ACT Relating to radioactive waste; amending section 3, chapter 207, Laws of 1961 as last amended by section 125, chapter 141, Laws of 1979 and RCW 70.98.030; adding a new chapter to Title 43 RCW; creating new sections; repealing section 12, chapter 295, Laws of 1981 and RCW 43.21F.075; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that the safe transporting, handling, storage, or otherwise caring for radioactive wastes is required to protect the health, safety, and welfare of the citizens of the state of Washington. It is the purpose of this chapter to establish authority for the state to exercise appropriate oversight and care for the safe management and disposal of radioactive wastes; to consult with the federal government and other states on interim or permanent storage of these radioactive wastes; and to carry out the state responsibilities under the federal nuclear waste policy act of 1982.

NEW SECTION. Sec. 2. The department of ecology is herein designated as the executive branch agency to carry out the authority and responsibility set forth in this chapter, including executive branch participation in the federal nuclear waste policy act of 1982 and the federal low-level radioactive waste policy act of 1980. The department may receive federal financial assistance for carrying out radioactive waste management activities, including assistance for monitoring and evaluating the program of repository exploration and siting undertaken by the federal government.

The department shall submit a written report at least semiannually to the governor and to each member of the legislature on the radioactive waste program, its progress in carrying out its responsibilities, and any recommendations for legislative or administrative action that will improve the state's management and control activity in maximizing public health and safety.

NEW SECTION. Sec. 3. All departments, agencies, and officers of this state and its subdivisions shall cooperate with the department in the furtherance of any of its activities pursuant to this chapter.

NEW SECTION. Sec. 4. There is hereby created a nuclear waste policy and review board to assist the department in carrying out its responsibilities under this chapter. The board shall consist of the following members: The chairman of the advisory council who shall also serve as chairman of the review board, the director of the department or the director's designee, the director of the energy office or the director's designee, the commissioner of public lands or the commissioner's designee, the secretary of social and health services or the secretary's designee, the chairman of the energy facility site evaluation council or the chairman's designee, four members of the state senate, appointed by the president of the senate, and four members of the house of representatives, appointed by the speaker, who shall be selected from each of the caucuses in each house, but no more than two members of each house shall be of the same political party. Legislative members shall be ex officio nonvoting members of the board and shall serve while members of the legislature, at the pleasure of the appointing officer. The board shall be responsible for identifying and reviewing state agency policies relating to the management of radioactive wastes; analyzing recommendations of the advisory council to determine how state agencies may be responsive to the needs of the department in carrying out its duties under this chapter; assisting the department in determining ways in which coordination among state agencies can be improved; carrying out such review activities that will enable the governor to effectively evaluate federal actions; reviewing the activities of advisory and technical committees created by the governor; advising the director on the need for additional advisory and technical committees; and assisting the department to participate in the consultation and concurrence process provided for in the federal waste management act of 1982 and the low-level waste policy act of 1980 and to monitor and comment on decisions of the northwest interstate compact committee on low-level radioactive waste management.

Nonlegislative members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060. Legislative members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 44.04.120. The legislature shall seek reimbursement from available sources, including the federal government, for legislative expenditures incurred pursuant to the provisions of this act.

NEW SECTION. Sec. 5. (1) An advisory council is hereby established of not less than fifteen members appointed by the governor to provide advice, counsel, and recommendations to the department on all aspects of the radioactive waste management program. The council shall particularly advise the department on maximizing opportunities for public involvement in the program, soliciting public input, and assisting in the need for wide understanding of the issues involved in nuclear waste management. The governor shall appoint the chairman of the advisory council who shall also

serve as chairman of the waste policy and review board. Members of the council shall be selected from all areas of the state and shall include a broad range of citizens, representatives of local governments, and representatives of such other interests as the governor determines will best further the purposes of this chapter. A representative of an affected Indian tribe may be an ex officio nonvoting member of the council. Terms of council members shall not exceed two years and they shall continue to serve until their successors are appointed. Vacancies shall be filled in the same manner as original appointments. Members may be reappointed. Members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 6. The department may establish such additional advisory and technical committees as it deems necessary.

NEW SECTION. Sec. 7. The department of ecology is authorized to adopt such rules as are necessary to carry out its responsibility under this chapter. The department of social and health services is authorized to adopt such rules as are necessary to carry out its responsibilities under chapter 43.145 RCW.

NEW SECTION. Sec. 8. The director of ecology shall, in addition to the powers and duties otherwise imposed by law, have the following special powers and duties:

(1) To fulfill the responsibilities of the state under the lease between the state of Washington and the federal government executed September 10, 1964, covering one thousand acres of land lying within the Hanford reservation near Richland, Washington. The department of ecology may sublease to private or public entities all or a portion of the land for specific purposes or activities which are determined, after public hearing, to be in consonance with the terms of the lease and in the best interests of the citizens of the state consistent with any criteria that may be developed as a requirement by the legislature;

(2) To assume the responsibilities of the state under the perpetual care agreement between the state of Washington and the federal government executed July 29, 1965. In order to finance perpetual surveillance and maintenance under the agreement, the department of ecology shall impose and collect fees from parties holding radioactive materials for waste management purposes. The fees shall be established by rule adopted under chapter 34.04 RCW and shall be an amount determined by the state radiation control agency to be necessary to defray the estimated liability of the state. Such fees shall reflect equity between the disposal facilities of this and other states. All such fees, when received by the department of ecology, shall be transmitted to the state treasurer, who shall act as custodian. The treasurer shall place the money in a special account which may be designated the "perpetual maintenance account." Appropriations are required to

permit expenditures and payment of obligations from this account, and the condition of the account and its administration shall be reported biennially to the legislature by the director. Moneys in the perpetual maintenance account shall be invested by the state investment board in the same manner as other state moneys. Any interest accruing as a result of investment shall accrue to the perpetual maintenance account. Additional moneys specifically appropriated by the legislature or received from any public or private source may be placed in the perpetual maintenance account. The perpetual maintenance account shall be used exclusively for surveillance and maintenance costs, or for otherwise satisfying surveillance and maintenance obligations; and

(3) To assure maintenance of such insurance coverage by state licensees, lessees, or sublessees as will adequately, in the opinion of the director, protect the citizens of the state against nuclear accidents or incidents that may occur on privately or state-controlled nuclear facilities.

Sec. 9. Section 3, chapter 207, Laws of 1961 as last amended by section 125, chapter 141, Laws of 1979 and RCW 70.98.030 are each amended to read as follows:

(1) "Byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(2) "Ionizing radiation" means gamma rays and x-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other (~~nuclear~~) atomic or subatomic particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

(3) (a) "General license" means a license effective pursuant to regulations promulgated by the state radiation control agency, without the filing of an application, to transfer, acquire, own, possess, or use quantities of, or devices or equipment utilizing, byproduct, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially.

(b) "Specific license" means a license, issued after application to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing byproduct, source, special nuclear materials, or other radioactive materials occurring naturally or produced artificially.

(4) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United States Atomic Energy Commission, or any successor thereto, and other than federal government agencies licensed by the United States Atomic Energy Commission, or any successor thereto.

(5) (~~("Source material" means (a) uranium, thorium, or any other material which the governor declares by order to be source material after the United States Atomic Energy Commission, or any successor thereto, has determined the material to be such; or (b) ores containing one or more of the foregoing materials, in such concentration as the governor declares by order to be source material after the United States Atomic Energy Commission, or any successor thereto, has determined the material in such concentration to be source material))~~ "Source material" means (a) uranium, thorium, or any other material which is determined by the United States Nuclear Regulatory Commission or its successor pursuant to the provisions of section 61 of the United States Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 209) to be source material; or (b) ores containing one or more of the foregoing materials, in such concentration as the commission may by regulation determine from time to time.

(6) (~~("Special nuclear material" means (a) plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the governor declares by order to be special nuclear material after the United States Atomic Energy Commission, or any successor thereto, has determined the material to be such, but does not include source material; or (b) any material artificially enriched by any of the foregoing, but does not include source material))~~ "Special nuclear material" means (a) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the United States Nuclear Regulatory Commission or its successor, pursuant to the provisions of section 51 of the United States Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2071), determines to be special nuclear material, but does not include source material; or (b) any material artificially enriched by any of the foregoing, but does not include source material.

(7) "Registration" means registration with the state department of social and health services by any person possessing a source of ionizing radiation in accordance with rules, regulations and standards adopted by the department of social and health services.

(8) "Radiation source" means any type of device or substance which is capable of producing or emitting ionizing radiation.

NEW SECTION. Sec. 10. The rules of strict construction do not apply to this act and it shall be liberally construed in order to carry out the objective for which it is designed, in accordance with the legislative intent to give the department of ecology the maximum possible freedom in carrying the provisions of this act into effect.

NEW SECTION. Sec. 11. If any part of this act shall be found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, such conflicting part of this act is hereby declared to be inoperative solely to the extent of such conflict and

with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this act in its application to the agencies concerned. The rules and regulations under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. Sec. 12. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 13. Section 12, chapter 295, Laws of 1981 and RCW 43.21F.075 are each repealed.

NEW SECTION. Sec. 14. The governor shall study whether the following powers, duties, and functions should be transferred to the department of ecology:

(1) All powers, duties, and functions authorized to be performed by the department of social and health services and its secretary by chapter 70.121 RCW;

(2) All powers, duties, and functions authorized to be performed by the department of social and health services and its secretary by chapter 70.98 RCW, including those relating to agreements now existing, or hereinafter entered into, with the United States operating under authority of the Atomic Energy Act of 1954, as amended. The functions included in this subsection include, but are not limited to, the licensing and regulation of radiation producing devices and radioactive materials now administered by the licensing program, materials compliance program, x-ray compliance program, and x-ray projects program of such department;

(3) Those of the board of health relating to programs transferred in subsections (1) and (2) of this section; and

(4) The designation as the state radiation control agency under RCW 70.98.050.

The study shall be conducted adhering to the provisions of the open public meetings act, chapter 42.30 RCW. The results shall be reported to the legislature by January 15, 1984.

NEW SECTION. Sec. 15. Sections 1 through 8 and 14 of this act shall constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 16. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate May 6, 1983.

Passed the House May 6, 1983.

Approved by the Governor May 13, 1983.

Filed in Office of Secretary of State May 13, 1983.