

"AN ACT Relating to tourism development."

Engrossed Substitute House Bill No. 1511 creates the Washington State Tourism Development Commission to advise the Governor and the legislature on tourism development.

The concept of a commission to study the tourism program in this state and to report back to the Governor and the legislature is acceptable and should prove beneficial. However, the method of appointment of the commission and its make-up as designated in this legislation clearly circumvent the executive branch of state government. The work envisioned by this legislation can be accomplished in a more efficient and responsible manner consistent with constitutional principles regarding the separation of powers if that work is undertaken in the manner established in the *Executive Order 84-03, a copy of which I have attached to this message. For these reasons, I have vetoed sections 3, 4, and 7 of Engrossed Substitute House Bill No. 1511.

The remaining sections of the bill are approved.

*Reviser's note: Executive Order 84-03 is published in the Washington State Register.

CHAPTER 123

[Substitute House Bill No. 1164]

SOLID WASTE MANAGEMENT—PRIORITIES—CITIES AND COUNTIES— SITE REVIEW—PLANS—RECOVERY AND RECYCLING

AN ACT Relating to solid waste management; amending section 1, chapter 134, Laws of 1969 ex. sess. as amended by section 1, chapter 41, Laws of 1975-'76 2nd ex. sess. and RCW 70.95.010; amending section 3, chapter 134, Laws of 1969 ex. sess. as last amended by section 3, chapter 41, Laws of 1975-'76 2nd ex. sess. and RCW 70.95.030; amending section 6, chapter 134, Laws of 1969 ex. sess. and RCW 70.95.060; amending section 9, chapter 134, Laws of 1969 ex. sess. as amended by section 1, chapter 293, Laws of 1971 ex. sess. and RCW 70.95-.090; amending section 10, chapter 134, Laws of 1969 ex. sess. and RCW 70.95.100; amending section 11, chapter 134, Laws of 1969 ex. sess. and RCW 70.95.110; amending section 19, chapter 134, Laws of 1969 ex. sess. and RCW 70.95.190; adding new sections to chapter 70.95 RCW; and repealing section 12, chapter 134, Laws of 1969 ex. sess. and RCW 70.95.120.

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

Sec. 1. Section 1, chapter 134, Laws of 1969 ex. sess. as amended by section 1, chapter 41, Laws of 1975-'76 2nd ex. sess. and RCW 70.95.010 are each amended to read as follows:

The legislature finds:

(1) Continuing technological changes in methods of manufacture, packaging, and marketing of consumer products, together with the economic and population growth of this state, the rising affluence of its citizens, and its expanding industrial activity have created new and ever-mounting problems involving disposal of garbage, refuse, and solid waste materials resulting from domestic, agricultural, and industrial activities.

(2) Traditional methods of disposing of solid wastes in this state are no longer adequate to meet the ever-increasing problem. Improper methods and practices of handling and disposal of solid wastes pollute our land, air and water resources, blight our countryside, adversely affect land values, and damage the overall quality of our environment.

(3) Considerations of natural resource limitations, energy shortages, economics and the environment make necessary the development and implementation of solid waste recovery and/or recycling plans and programs.

(4) The following priorities in the management of solid waste are necessary and should be followed in order of descending priority as applicable:

(a) Waste reduction;

(b) Waste recycling;

(c) Energy recovery or incineration; and

(d) Landfill.

Sec. 2. Section 3, chapter 134, Laws of 1969 ex. sess. as last amended by section 3, chapter 41, Laws of 1975-'76 2nd ex. sess. and RCW 70.95-.030 are each amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "City" means every incorporated city and town.

(2) "Committee" means the solid waste advisory committee.

(3) "Department" means the department of ecology.

(4) "Director" means the director of the department of ecology.

(5) "Disposal site" means the location where any final treatment, utilization, processing, or depository of solid waste occurs.

(6) "Functional standards" means criteria for solid waste handling expressed in terms of expected performance or solid waste handling functions.

(7) "Jurisdictional health department" means city, county, city-county, or district public health department.

(8) "Person" means individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(9) "Solid waste" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities.

(10) "Solid waste handling" means the management, storage, collection, transportation, treatment, utilization, processing, and final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from such wastes or the conversion of the energy in such wastes to more useful forms or combinations thereof.

(11) "Waste reduction" means reducing the amount or type of waste generated.

(12) "Waste recycling" means reusing waste materials and extracting valuable materials from a waste stream.

(13) "Energy recovery or incineration" means reducing the volume of wastes by use of an enclosed device using controlled flame combustion.

(14) "Landfill" means a disposal facility or part of a facility at which waste is placed in or on land and which is not a land treatment facility.

***Sec. 3. Section 6, chapter 134, Laws of 1969 ex. sess. and RCW 70.95.060 are each amended to read as follows:**

The department in accordance with procedures prescribed by the Administrative Procedure Act, chapter 34.04 RCW, as now or hereafter amended, ((may)) shall adopt ((such)) minimum functional standards for solid waste handling ((as it deems appropriate)). These standards shall be designed to use the best available technology to protect the environment and human health, and shall be revised periodically to reflect new technology and information. Any such standards shall be reviewed and approved by the solid waste advisory committee established pursuant to RCW 70.95.040 during their promulgation and prior to their adoption. The department in adopting such standards may classify areas of the state with respect to population density, climate, geology, and other relevant factors bearing on solid waste ((disposal)) handling standards.

***Sec. 3. was vetoed, see message at end of chapter.**

NEW SECTION. Sec. 4. There is added to chapter 70.95 RCW a new section to read as follows:

(1) Each county or city siting a solid waste disposal facility shall review each potential site for conformance with the standards as set by the department for:

- (a) Geology;
- (b) Ground water;
- (c) Soil;
- (d) Flooding;
- (e) Surface water;
- (f) Slope;
- (g) Cover material;
- (h) Capacity;
- (i) Climatic factors;
- (j) Land use;
- (k) Toxic air emissions; and
- (l) Other factors as determined by the department.

(2) The standards in subsection (1) of this section shall be designed to use the best available technology to protect the environment and human health, and shall be revised periodically to reflect new technology and information.

(3) Each county shall establish a local solid waste advisory committee to assist in the development of programs and policies concerning solid waste handling and disposal and to review and comment upon proposed rules, policies, or ordinances prior to their adoption. Such committees shall consist of up to nine members and shall represent a balance of interests including, but not limited to, citizens, public interest groups, business, the waste management industry, and local elected public officials. The members shall be appointed by the county legislative authority. A county or city shall not apply

for funds from the state and local improvements revolving account, Waste Disposal Facilities, 1980, under chapter 43.99F RCW, for the preparation, update, or major amendment of a comprehensive solid waste management plan unless the plan or revision has been prepared with the active assistance and participation of a local solid waste advisory committee.

Sec. 5. Section 9, chapter 134, Laws of 1969 ex. sess. as amended by section 1, chapter 293, Laws of 1971 ex. sess. and RCW 70.95.090 are each amended to read as follows:

Each county and city solid waste management plan shall include the following:

(1) A detailed inventory and description of all existing solid waste handling facilities including an inventory of any deficiencies in meeting current solid waste handling needs.

(2) The estimated long-range needs for solid waste handling facilities projected twenty years into the future.

(3) A program for the orderly development of solid waste handling facilities in a manner consistent with the plans for the entire county which shall:

(a) Meet the minimum functional standards for solid waste handling adopted by the department and all laws and regulations relating to air and water pollution, fire prevention, flood control, and protection of public health;

(b) Take into account the comprehensive land use plan of each jurisdiction;

(c) Contain a six year construction and capital acquisition program for solid waste handling facilities; and

(d) Contain a plan for financing both capital costs and operational expenditures of the proposed solid waste management system.

(4) A program for surveillance and control.

(5) A current inventory and description of solid waste collection needs and operations within each respective jurisdiction which shall include:

(a) Any franchise for solid waste collection granted by the utilities and transportation commission in the respective jurisdictions including the name of the holder of the franchise and the address of his place of business and the area covered by his operation;

(b) Any city solid waste operation within the county and the boundaries of such operation;

(c) The population density of each area serviced by a city operation or by a franchised operation within the respective jurisdictions;

(d) The projected solid waste collection needs for the respective jurisdictions for the next six years.

(6) A review of potential areas that meet the criteria as outlined in section 4 of this 1984 act.

Sec. 6. Section 10, chapter 134, Laws of 1969 ex. sess. and RCW 70-.95.100 are each amended to read as follows:

The department shall provide to counties and cities technical assistance in the preparation, review, and revision of solid waste management plans required by this chapter. Each comprehensive county solid waste management plan shall be submitted to the department for technical review and approval. The department may recommend revisions essential to the achievement of effective solid waste management and the purposes of this chapter.

Sec. 7. Section 11, chapter 134, Laws of 1969 ex. sess. and RCW 70-.95.110 are each amended to read as follows:

The comprehensive county solid waste (~~((handling))~~) management plans and any city solid waste (~~((handling))~~) management plans prepared in accordance with RCW 70.95.080 shall be maintained in a current condition and reviewed and revised periodically by counties and cities as may be required by the department (~~((of environmental quality))~~). Upon each review such plans shall be extended to show long-range needs for solid waste handling facilities for twenty years in the future, and a revised construction and capital acquisition program for six years in the future. Each revised solid waste (~~((handling))~~) management plan shall be submitted to the department (~~((of environmental quality))~~).

Each plan shall be reviewed and revised within five years of the effective date of this 1984 act, and thereafter shall be reviewed, and revised if necessary, at least once every five years.

NEW SECTION. Sec. 8. There is added to chapter 70.95 RCW to be codified between RCW 70.95.180 and 70.95.190 a new section to read as follows:

Every permit issued by a jurisdictional health department under RCW 70.95.180 shall be reviewed by the department to ensure that the proposed site or facility conforms with:

- (1) All applicable laws and regulations including the minimal functional standards for solid waste handling; and
- (2) The approved comprehensive solid waste management plan.

The department shall review the permit within thirty days after the issuance of the permit by the jurisdictional health department. The department may appeal the issuance of the permit by the jurisdictional health department to the pollution control hearings board, as described in chapter 43.21B RCW, for noncompliance with subsection (1) or (2) of this section.

No permit issued pursuant to RCW 70.95.180 after the effective date of this act shall be considered valid unless it has been reviewed by the department.

Sec. 9. Section 19, chapter 134, Laws of 1969 ex. sess. and RCW 70-.95.190 are each amended to read as follows:

Every permit for a solid waste disposal site shall be renewed annually on a date to be established by the jurisdictional health department having jurisdiction of the site. Prior to renewing a permit, the health department shall conduct such inspections as it deems necessary to assure that the solid waste disposal site and facilities located on the site meet minimum functional standards of the department (~~of environmental quality and~~), applicable local regulations, and are not in conflict with the approved solid waste management plan. The department shall review and may appeal the renewal as set forth for the approval of permits in section 8 of this 1984 act.

A renewal issued under this section shall not be considered valid unless it has been reviewed by the department.

NEW SECTION. Sec. 10. There is added to chapter 70.95 RCW a new section to read as follows:

The department is authorized to use funds under chapter 43.99F RCW to disburse to local governments in developing solid waste recovery or recycling projects. Priority shall be given to those projects that use incineration of solid waste to produce energy and to recycling projects.

NEW SECTION. Sec. 11. Section 12, chapter 134, Laws of 1969 ex. sess. and RCW 70.95.120 are each repealed.

Passed the House February 28, 1984.

Passed the Senate February 23, 1984.

Approved by the Governor March 7, 1984, with the exception of section 3, which was vetoed.

Filed in Office of Secretary of State March 7, 1984.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to one section, Substitute House Bill No. 1164, entitled:

"AN ACT Relating to solid waste management; . . ."

This act lists priorities for solid waste management and requires the Department of Ecology to adopt functional standards for the handling of solid waste which utilize technology to protect the environment and human health. The purpose of the bill is laudable, and I fully support its execution. Therefore, I approved the entire bill with the exception of Section 3 which I vetoed.

Section 3 amends existing language in RCW 70.95.060 which already gave the Department of Ecology permissive authority to adopt minimum functional standards for solid waste handling. The amendments require the Department of Ecology to adopt these standards, but also require that the standards be reviewed and approved by the Solid Waste Advisory Committee prior to adoption.

I support the use of advisory committees for review and comment as is specified in Section 4(3) for the local solid waste advisory committee on plan preparation and revisions. However, it is not appropriate to give an advisory committee approval or veto of standards adoption. This constitutes delegation of rule-making authority to an advisory committee which is not accountable to the electorate for its actions.

There are sufficient opportunities through the rule-making process for both the advisory committee and the general public to be heard.

I believe that my veto of Section 3, for the reasons outlined above, has not harmed the spirit and intent of Substitute House Bill 1164. Please be assured that the

Department of Ecology will proceed with adoption of functional standards for solid waste management while utilizing its advisory committee on solid waste management for review and comment.

The remaining sections of the bill are approved.*

CHAPTER 124

[Engrossed Substitute House Bill No. 1456] TRANSITIONAL BILINGUAL INSTRUCTION

AN ACT Relating to transitional bilingual instruction; amending section 1, chapter 95, Laws of 1979 and RCW 28A.58.800; amending section 2, chapter 95, Laws of 1979 and RCW 28A.58.802; amending section 3, chapter 95, Laws of 1979 and RCW 28A.58.804; amending section 4, chapter 95, Laws of 1979 and RCW 28A.58.806; amending section 5, chapter 95, Laws of 1979 and RCW 28A.58.808; amending section 6, chapter 95, Laws of 1979 and RCW 28A.58.810; and adding new sections to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.58 RCW.

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

Sec. 1. Section 1, chapter 95, Laws of 1979 and RCW 28A.58.800 are each amended to read as follows:

RCW 28A.58.800 through 28A.58.810 shall be known and cited as "The Transitional Bilingual Instruction Act (~~of 1979~~)". The legislature finds that there are large numbers of children who come from homes where the primary language is other than English. (~~Experience has shown that classes which are taught in English are inadequate to meet the needs of these children.~~) The legislature finds that a transitional bilingual education program can meet the needs of these children. Pursuant to the policy of this state to insure equal educational opportunity to every child in this state, it is the purpose of RCW 28A.58.800 through 28A.58.810 to provide for the implementation of transitional bilingual education programs in the public schools, and to provide supplemental financial assistance to (~~help local~~) school districts to meet the extra costs of these programs.

Sec. 2. Section 2, chapter 95, Laws of 1979 and RCW 28A.58.802 are each amended to read as follows:

As used in RCW 28A.58.800 through 28A.58.810, unless the context thereof indicates to the contrary:

(1) "Transitional bilingual instruction" means :

(a) A system of instruction which uses two languages, one of which is English, as a means of instruction to build upon and expand language skills to enable the pupil to achieve competency in English. Concepts and information are introduced in the primary language and reinforced in the second language: **PROVIDED**, That the program shall include testing in the subject matter in English(~~:~~); or