

of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 23, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor May 21, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State May 21, 1985.

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

"I am returning herewith, without my approval as to one section, House Bill No. 999 entitled:

"AN ACT Relating to educational clinics...;"

House Bill No. 999 establishes a new system for the allocation of state funds in support of educational clinics, and directs a study by the Superintendent of Public Instruction concerning the funding and program criteria for educational clinics and public school drop-out prevention programs.

Section 5 was added as a Senate floor amendment. The intent of the section was to preclude the potential disruptiveness that might result from drop-out students returning to their former high schools. The amendment, though, would allow such students to return for attendance in vocational educational programs. The intent of this amendment has merit, although it unfortunately raises two significant legal questions: equal protection for all students; and denying the constitutional right to a basic education. The Supreme Court ruled that there is an absolute right of the state to provide a basic education, unless prevented by the student. The Section 5 provision might be held unconstitutional because it limits the state's responsibility to provide an equal opportunity for basic education for all students.

The equal protection issue arises because only drop-outs who have attended educational clinics and obtained a GED would be prohibited from returning to the common school system. There is no statutory prohibition against a drop-out returning to the common school system.

With the exception of Section 5, which I have vetoed, the remainder of House Bill No. 999 is approved."

CHAPTER 435

[Substitute Senate Bill No. 4424]

WATER RIGHTS—SPECIAL FILING PERIOD TEMPORARILY ESTABLISHED

AN ACT Relating to water rights; amending RCW 90.14.043; adding a new section to chapter 90.14 RCW; and declaring an emergency.

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

Sec. 1. Section 4, chapter 216, Laws of 1979 ex. sess. and RCW 90.14.043 are each amended to read as follows:

(1) Notwithstanding any time restrictions imposed by the provisions of chapter 90.14 RCW, a person may file a claim pursuant to RCW 90.14.041 if such person obtains a certification from the pollution control hearings board as provided in this section.

(2) A certification shall be issued by the pollution control hearings board if, upon petition to the board, it is shown to the satisfaction of the board that:

(a) Waters of the state have been applied to beneficial use continuously (with no period of nonuse exceeding five consecutive years) in the case of surface water beginning not later than June 7, 1917, and in the case of ground water beginning not later than June 7, 1945, or

(b) Waters of the state have been applied to beneficial use continuously (with no period of nonuse exceeding five consecutive years) from the date of entry of a court decree confirming a water right and any failure to register a claim resulted from a reasonable misinterpretation of the requirements as they related to such court decreed rights.

(3) The board shall have jurisdiction to accept petitions for certification from any person through (~~December 31, 1979~~) September 1, 1985, and not thereafter.

(4) A petition for certification shall include complete information on the claim pursuant to RCW 90.14.051 (1) through (8), and any such information as the board may require.

(5) The department of ecology is directed to accept for filing any claim certified by the board as provided in subsection (2) of this section. The department of ecology, upon request of the board, may provide assistance to the board pertinent to any certification petition.

(6) A certification by the pollution control hearings board or a filing with the department of ecology of a claim under this section shall not constitute a determination or confirmation that a water right exists.

(7) The provisions of RCW 90.14.071 shall have no applicability to certified claims filed pursuant to this section.

(8) This section shall have no applicability to ground waters resulting from the operations of reclamation projects.

NEW SECTION. Sec. 2. A new section is added to chapter 90.14 RCW to read as follows:

The provisions of this 1985 amendatory act authorizing the acceptance of a petition for certification filed during the period beginning on the effective date of this 1985 amendatory act and ending on midnight, September 1, 1985, shall not affect or impair in any respect whatsoever any water right existing prior to the effective date of this 1985 act.

****NEW SECTION. Sec. 3. 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.***

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

Passed the Senate April 27, 1985.

Passed the House April 26, 1985.

Approved by the Governor May 21, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State May 21, 1985.

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

"I am returning herewith, without my approval as to Section 3, Substitute Senate Bill No. 4424, entitled:

"AN ACT Relating to water rights."

This bill reopens the filing of water claims for water rights based on water use up to 1917 for surface water and up to 1945 for groundwater. All claims must be filed by September 1, 1985.

Section 3 of the bill is an emergency clause that would make the bill effective immediately. I believe it is in the best interest of all claimants to keep this period for filing claims as short as possible. By vetoing Section 3, this bill will become effective on July 28, 1985.

With the exception of Section 3, Substitute Senate Bill No. 4424 is approved."

CHAPTER 436

[Substitute House Bill No. 69]

LANDFILL DISPOSAL FACILITIES—RESERVE ACCOUNT TO COVER COST OF CLOSURE—UTILITIES AND TRANSPORTATION COMMISSION AUTHORITY REGARDING GARBAGE COLLECTION

AN ACT Relating to solid waste management; amending RCW 81.77.100; and adding a new section to chapter 70.95 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 70.95 RCW to read as follows:

(1) By July 1, 1987, each holder or applicant of a permit for a landfill disposal facility issued under this chapter shall establish a reserve account to cover the costs of closing the facility in accordance with state and federal regulations. The account shall be designed to ensure that there will be adequate revenue available by the projected date of closure. Landfill disposal facilities maintained on private property for the sole use of the entity owning the site shall not be required to establish a reserve account if, to the satisfaction of the department, they provide another form of financial assurance adequate to comply with the requirements of this section.

(2) By July 1, 1986, the department shall adopt rules under chapter 34.04 RCW to implement subsection (1) of this section. The rules shall include but not be limited to:

(a) Methods to estimate closure costs, including postclosure monitoring, pollution prevention measures, and any other procedures required under state and federal regulations;

(b) Methods to ensure that reserve accounts receive adequate funds, including:

(i) Requirements that the reserve account be generated by user fees. However, the department may waive this requirement for existing landfills if user fees would be prohibitively high;