

## CHAPTER 431

[Substitute House Bill No. 1671]  
SOLID WASTE MANAGEMENT

AN ACT Relating to solid waste; amending RCW 70.95.010, 70.95.030, 70.95.090, 70.95.110, 70.95.100, 70.95.130, 70.95.160, 70.95.165, 70.95.280, 35.21.120, 81.77.010, 81.77.020, 81.77.030, 81.77.040, 81.77.050, 81.77.060, 81.77.080, 81.77.100, 81.77.110, 36.58.030, 36.58.040, 82.04.070, 43.21A.520, 35.21.130, 36.58.010, 35.23.352, 39.30.040, 35.22.620, 43.19.1911, 43.160.010, 43.160.060, 82.18.010, 82.18.020, 82.18.030, 82.18.040, 82.18.050, 82.18.060, 82.18.070, 82.18.080, 70.95.510, 70.95.520, and 70.95.560; amending section 15, chapter 528, Laws of 1987 as amended by section 6, chapter 184, Laws of 1988 (uncodified); reenacting and amending RCW 70.95.260 and 36.32.250; adding new sections to chapter 70.95 RCW; adding a new section to chapter 35.21 RCW; adding new sections to chapter 81.77 RCW; adding new sections to chapter 36.58 RCW; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding new sections to chapter 70.95C RCW; adding a new section to chapter 82.02 RCW; adding a new section to chapter 43.160 RCW; adding a new section to chapter 43.31 RCW; adding a new section to chapter 82.18 RCW; adding a new chapter to Title 43 RCW; adding a new chapter to Title 70 RCW; creating new sections; prescribing penalties; providing an expiration date; providing effective dates; and declaring an emergency.

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

## I.

## LEGISLATIVE FINDINGS AND DEFINITIONS

Sec. 1. Section 1, chapter 134, Laws of 1969 ex. sess. as last amended by section 1, chapter 345, Laws of 1985 and RCW 70.95.010 are each amended to read as follows:

**FINDINGS.** 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.

(5)) Waste reduction must become a fundamental strategy of solid waste management. It is therefore necessary to change manufacturing and purchasing practices and waste generation behaviors to reduce the amount of waste that becomes a governmental responsibility.

(5) Source separation of waste must become a fundamental strategy of solid waste management. Collection and handling strategies should have, as an ultimate goal, the source separation of all materials with resource value or environmental hazard.

(6)(a) It is the responsibility of every person to minimize his or her production of wastes and to separate recyclable or hazardous materials from mixed waste.

(b) It is the responsibility of state, county, and city governments to provide for a waste management infrastructure to fully implement waste reduction and source separation strategies and to process and dispose of remaining wastes in a manner that is environmentally safe and economically sound. It is further the responsibility of state, county, and city governments to monitor the cost-effectiveness and environmental safety of combusting separated waste, processing mixed waste, and recycling programs.

(c) It is the responsibility of county and city governments to assume primary responsibility for solid waste management and to develop and implement aggressive and effective waste reduction and source separation strategies.

(d) It is the responsibility of state government to ensure that local governments are providing adequate source reduction and separation opportunities and incentives to all, including persons in both rural and urban areas, and nonresidential waste generators such as commercial, industrial, and institutional entities, recognizing the need to provide flexibility to accommodate differing population densities, distances to and availability of recycling markets, and collection and disposal costs in each community; and to provide county and city governments with adequate technical resources to accomplish this responsibility.

(7) Environmental and economic considerations in solving the state's solid waste management problems requires strong consideration by local governments of regional solutions and intergovernmental cooperation.

(8) The following priorities for the collection, handling, and management of solid waste are necessary and should be followed in descending order as applicable:

(a) Waste reduction;

(b) Recycling, with source separation of recyclable materials as the preferred method;

(c) Energy recovery, incineration, or landfill of separated waste;

(d) Energy recovery, incineration, or landfilling of mixed wastes.

(9) It is the state's goal to achieve a fifty percent recycling rate by 1995.

(10) Steps should be taken to make recycling at least as affordable and convenient to the ratepayer as mixed waste disposal.

(11) It is necessary to compile and maintain adequate data on the types and quantities of solid waste that are being generated and to monitor how the various types of solid waste are being managed.

(12) Vehicle batteries should be recycled and the disposal of vehicle batteries into landfills or incinerators should be discontinued.

(13) Excessive and nonrecyclable packaging of products should be avoided.

(14) Comprehensive education should be conducted throughout the state so that people are informed of the need to reduce, source separate, and recycle solid waste.

(15) All governmental entities in the state should set an example by implementing aggressive waste reduction and recycling programs at their workplaces and by purchasing products that are made from recycled materials and are recyclable.

(16) To ensure the safe and efficient operations of solid waste disposal facilities, it is necessary for operators and regulators of landfills and incinerators to receive training and certification.

(17) It is necessary to provide adequate funding to all levels of government so that successful waste reduction and recycling programs can be implemented.

(18) The development of stable and expanding markets for recyclable materials is critical to the long-term success of the state's recycling goals. Market development must be encouraged on a state, regional, and national basis to maximize its effectiveness. The state shall assume primary responsibility for the development of a multifaceted market development program to carry out the purposes of this act.

(19) There is an imperative need to anticipate, plan for, and accomplish effective storage, control, recovery, and recycling of discarded ((vehicle)) tires and other problem wastes with the subsequent conservation of resources and energy.

## II.

### RECYCLING SERVICE LEVELS, LOCAL COMPREHENSIVE SOLID WASTE MANAGEMENT PLANS, AND FINANCIAL AND TECHNICAL ASSISTANCE

Sec. 2. Section 3, chapter 134, Laws of 1969 ex. sess. as last amended by section 3, chapter 345, Laws of 1985 and RCW 70.95.030 are each amended to read as follows:

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

- (1) "City" means every incorporated city and town.
- (2) "Commission" means the utilities and transportation commission.
- (3) "Committee" means the state solid waste advisory committee.
- ~~((3))~~ (4) "Department" means the department of ecology.
- ~~((4))~~ (5) "Director" means the director of the department of ecology.
- ~~((5))~~ (6) "Disposal site" means the location where any final treatment, utilization, processing, or ~~((depository))~~ deposit of solid waste occurs.
- ~~((6))~~ (7) "Energy recovery" means a process operating under federal and state environmental laws and regulations for converting solid waste into usable energy and for reducing the volume of solid waste.
- (8) "Functional standards" means criteria for solid waste handling expressed in terms of expected performance or solid waste handling functions.
- ~~((7))~~ (9) "Incineration" means a process of reducing the volume of solid waste operating under federal and state environmental laws and regulations by use of an enclosed device using controlled flame combustion.
- (10) "Jurisdictional health department" means city, county, city-county, or district public health department.
- ~~((8))~~ (11) "Landfill" means a disposal facility or part of a facility at which solid waste is placed in or on land and which is not a land treatment facility.
- (12) "Local government" means a city, town, or county.
- (13) "Person" means individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.
- ~~((9))~~ (14) "Recyclable materials" means those solid wastes that are separated for recycling or reuse, such as papers, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan. Prior to the adoption of the local comprehensive solid waste plan, adopted pursuant to section 5(2) of this act, local governments may identify recyclable materials by ordinance from the effective date of this act.
- (15) "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration.
- (16) "Solid waste" or "wastes" 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))~~ recyclable materials.
- ~~((10))~~ (17) "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))~~ solid wastes or

the conversion of the energy in ~~((such))~~ solid wastes to more useful forms or combinations thereof.

~~((++))~~ (18) "Source separation" means the separation of different kinds of solid waste at the place where the waste originates.

(19) "Vehicle" includes every device physically capable of being moved upon a public or private highway, road, street, or watercourse and in, upon, or by which any person or property is or may be transported or drawn upon a public or private highway, road, street, or watercourse, except devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(20) "Waste reduction" means reducing the amount or ((type)) toxicity of waste generated or reusing materials.

~~((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:~~

~~(15) "Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human or animal power or used exclusively upon stationary rails or tracks:))~~

Sec. 3. Section 9, chapter 134, Laws of 1969 ex. sess. as last amended by section 5, chapter 123, Laws of 1984 and RCW 70.95.090 are each amended to read as follows:

LOCAL WASTE MANAGEMENT PLANS. Each county and city comprehensive 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 or her place of business and the area covered by ~~((his operation))~~ the franchise;

(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 comprehensive waste reduction and recycling element that, in accordance with the priorities established in RCW 70.95.010, provides programs that (a) reduce the amount of waste generated, (b) provide incentives and mechanisms for source separation, and (c) establish recycling opportunities for the source separated waste.

(7) The waste reduction and recycling element shall include the following:

(a) Waste reduction strategies;

(b) Source separation strategies, including:

(i) Programs for the collection of source separated materials from residences in urban and rural areas. In urban areas, these programs shall include collection of source separated recyclable materials from residential dwellings, unless the department approves an alternative program, according to the criteria in the planning guidelines. Such criteria shall include: Anticipated recovery rates and levels of public participation, availability of environmentally sound disposal capacity, access to markets for recyclable materials, unreasonable cost impacts on the rate payer over the six-year planning period, utilization of environmentally sound waste reduction and recycling technologies, and other factors as appropriate. In rural areas, these programs shall include but not be limited to drop-off boxes, buy-back centers, or a combination of both, at each solid waste transfer, processing, or disposal site, or at locations convenient to the residents of the county. The drop-off boxes and buy-back centers may be owned or operated by public, nonprofit, or private persons;

(ii) Programs to monitor the collection of source separated waste at nonresidential sites where there is sufficient density to sustain a program;

(iii) Programs to collect yard waste, if the county or city submitting the plan finds that there are adequate markets or capacity for composted

yard waste within or near the service area to consume the majority of the material collected; and

(iv) Programs to educate and promote the concepts of waste reduction and recycling;

(c) Recycling strategies, including a description of markets for recyclables, a review of waste generation trends, a description of waste composition, a discussion and description of existing programs and any additional programs needed to assist public and private sector recycling, and an implementation schedule for the designation of specific materials to be collected for recycling, and for the provision of recycling collection services;

(d) Other information the county or city submitting the plan determines is necessary.

(8) An assessment of the plan's impact on the costs of solid waste collection. The assessment shall be prepared in conformance with guidelines established by the utilities and transportation commission. The commission shall cooperate with the Washington state association of counties and the association of Washington cities in establishing such guidelines.

(9) A review of potential areas that meet the criteria as outlined in RCW 70.95.165.

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

**SERVICE LEVELS IN PLANS.** Levels of service shall be defined in the waste reduction and recycling element of each local comprehensive solid waste management plan and shall include the services set forth in RCW 70.95.090. In determining which service level is provided to residential and nonresidential waste generators in each community, counties and cities shall develop clear criteria for designating areas as urban or rural. In designating urban areas, local governments shall consider the planning guidelines adopted by the department, total population, population density, and any applicable land use or utility service plans.

Sec. 5. Section 11, chapter 134, Laws of 1969 ex. sess. as amended by section 7, chapter 123, Laws of 1984 and RCW 70.95.110 are each amended to read as follows:

**PLANNING DEADLINES.** (1) The comprehensive county solid waste management plans and any comprehensive city solid waste 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. 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 management plan shall be submitted to the department.

Each plan shall be reviewed and revised within five years of ~~((June 7))~~ July 1, 1984, and thereafter shall be reviewed, and revised if necessary~~((, at~~

~~least once every five years))~~ according to the schedule provided in subsection (2) of this section.

(2) Cities and counties preparing solid waste management plans shall submit the waste reduction and recycling element required in RCW 70.95-.090 and any revisions to other elements of its comprehensive solid waste management plan to the department no later than:

- (a) July 1, 1991, for class one areas;
- (b) July 1, 1992, for class two areas; and
- (c) July 1, 1994, for class three areas.

Thereafter, each plan shall be reviewed and revised, if necessary, at least every five years. Nothing in this act shall prohibit local governments from submitting a plan prior to the dates listed in this subsection.

(3) The classes of areas are defined as follows:

(a) Class one areas are the counties of Spokane, Snohomish, King, Pierce, and Kitsap and all the cities therein.

(b) Class two areas are all other counties located west of the crest of the Cascade mountains and all the cities therein.

(c) Class three areas are the counties east of the crest of the Cascade mountains and all the cities therein, except for Spokane county.

(4) Cities and counties shall begin implementing the programs to collect source separated materials no later than one year following the adoption and approval of the waste reduction and recycling element and these programs shall be fully implemented within two years of approval.

Sec. 6. Section 10, chapter 134, Laws of 1969 ex. sess. as amended by section 6, chapter 123, Laws of 1984 and RCW 70.95.100 are each amended to read as follows:

TECHNICAL ASSISTANCE. (1) The department or the commission, as appropriate, shall provide to counties and cities technical assistance including, but not limited to, planning guidelines, 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.)) Guidelines prepared under this section shall be consistent with the provisions of this chapter. Guidelines for the preparation of the waste reduction and recycling element of the comprehensive solid waste management plan shall be completed by the department by March 15, 1990. These guidelines shall provide recommendations to local government on materials to be considered for designation as recyclable materials. The state solid waste management plan prepared pursuant to RCW 70.95.260 shall be consistent with these guidelines.



(2) The department shall be responsible for development and implementation of a comprehensive state-wide public information program designed to encourage waste reduction, source separation, and recycling by the public. The department shall operate a toll free hotline to provide the public information on waste reduction and recycling.

(3) The department shall provide technical assistance to local governments in the development and dissemination of informational materials and related activities to assure recognition of unique local waste reduction and recycling programs.

(4) Local governments shall make all materials and information developed with the assistance grants provided under RCW 70.95.130 available to the department for potential use in other areas of the state.

*\*Sec. 7. Section 13, chapter 134, Laws of 1969 ex. sess. and RCW 70.95.130 are each amended to read as follows:*

**FINANCIAL ASSISTANCE.** *Any county may apply to the department on a form prescribed thereby for financial aid for the preparation of the comprehensive county plan for solid waste management required by RCW 70.95.080. Any city electing to prepare an independent city plan, a joint city plan, or a joint county-city plan for solid waste management for inclusion in the county comprehensive plan may apply for financial aid for such purpose through the county. Every city application for financial aid for planning shall be filed with the county auditor and shall be included as a part of the county's application for financial aid. ((Any city preparing an independent plan shall provide for disposal sites wholly within its jurisdiction:))*

Any city or county may also apply directly to the department for financial aid to prepare public informational materials promoting waste reduction and recycling and for related programs pursuant to the comprehensive plan.

*The department shall allocate to the counties and cities applying for financial aid for planning, such funds as may be available pursuant to legislative appropriations or from any federal grants for such purpose.*

*The department shall determine priorities and allocate available funds among the counties and cities applying for aid according to criteria established by regulations of the department considering population, urban development, environmental effects of waste disposal, existing waste handling practices, proposed programs for waste reduction and recycling, and the local justification of their proposed expenditures.*

*\*Sec. 7 was vetoed, see message at end of chapter.*

NEW SECTION. Sec. 8. A new section is added to chapter 70.95 RCW to read as follows:

**ECOLOGY REVIEW OF LOCAL PLANS.** (1) The department and local governments preparing plans are encouraged to work cooperatively during plan development. Each county and city preparing a comprehensive solid waste management plan shall submit a preliminary draft plan to the department for technical review. The department shall review and comment

on the draft plan within one hundred twenty days of receipt. The department's comments shall state specific actions or revisions that must be completed for plan approval.

(2) Each final draft solid waste management plan shall be submitted to the department for approval. The department will limit its comments on the final draft plans to those issues identified during its review of the draft plan and any other changes made between submittal of the preliminary draft and final draft plans. Disapproval of the local comprehensive solid waste management plan shall be supported by specific findings. A final draft plan shall be deemed approved if the department does not disapprove it within forty-five days of receipt.

(3) If the department disapproves a plan or any plan amendments, the submitting entity may appeal the decision under the procedures of Part IV of chapter 34.05 RCW. An administrative law judge shall preside over the appeal. The appeal shall be limited to review of the specific findings which supported the disapproval under subsection (2) of this section.

Sec. 9. Section 26, chapter 134, Laws of 1969 ex. sess. as amended by section 23, chapter 6, Laws of 1985 and by section 8, chapter 345, Laws of 1985 and RCW 70.95.260 are each reenacted and amended to read as follows:

**STATE PLAN.** The department shall in addition to its other powers and duties:

(1) Cooperate with the appropriate federal, state, interstate and local units of government and with appropriate private organizations in carrying out the provisions of this chapter.

(2) Coordinate the development of a solid waste management plan for all areas of the state in cooperation with local government, the department of community development, and other appropriate state and regional agencies. The plan shall relate to solid waste management for twenty years in the future and shall be reviewed biennially, revised as necessary, and extended so that perpetually the plan shall look to the future for twenty years as a guide in carrying out a state coordinated solid waste management program. The plan shall be developed into a single integrated document and shall be adopted no later than October 1990. The plan shall be revised regularly after its initial completion so that local governments revising local comprehensive solid waste management plans can take advantage of the data and analysis in the state plan.

(3) Provide technical assistance to any person as well as to cities, counties, and industries.

(4) Initiate, conduct, and support research, demonstration projects, and investigations, and coordinate research programs pertaining to solid waste management systems.

(5) Develop state-wide programs to increase public awareness of and participation in tire recycling, and to stimulate and encourage local private tire recycling centers and public participation in tire recycling.

(6) May, under the provisions of the Administrative Procedure Act, chapter ~~((34.04))~~ 34.05 RCW, as now or hereafter amended, from time to time promulgate such rules and regulations as are necessary to carry out the purposes of this chapter.

Sec. 10. Section 16, chapter 134, Laws of 1969 ex. sess. as amended by section 29, chapter 127, Laws of 1988 and RCW 70.95.160 are each amended to read as follows:

**IMPLEMENTING SERVICE LEVELS.** Each county, or any city, or jurisdictional board of health shall adopt regulations or ordinances governing solid waste handling implementing the comprehensive solid waste management plan covering storage, collection, transportation, treatment, utilization, processing and final disposal including but not limited to the issuance of permits and the establishment of minimum levels and types of service for any aspect of solid waste handling. County regulations or ordinances adopted regarding levels and types of service shall not apply within the limits of any city where the city has by local ordinance determined that the county shall not exercise such powers within the corporate limits of the city. Such regulations or ordinances shall assure that solid waste storage and disposal facilities are located, maintained, and operated in a manner so as properly to protect the public health, prevent air and water pollution, are consistent with the priorities established in RCW 70.95.010, and avoid the creation of nuisances. Such regulations or ordinances may be more stringent than the minimum functional standards adopted by the department. Regulations or ordinances adopted by counties, cities, or jurisdictional boards of health shall be filed with the department.

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

Sec. 11. Section 4, chapter 123, Laws of 1984 and RCW 70.95.165 are each amended 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))~~ a minimum of 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.

**NEW SECTION.** Sec. 12. A new section is added to chapter 70.95 RCW to read as follows:

**UTILITIES AND TRANSPORTATION COMMISSION COST ASSESSMENT.** Upon receipt, the department shall immediately provide the utilities and transportation commission with a copy of each preliminary draft local comprehensive solid waste management plan. Within forty-five days after receiving a plan, the commission shall have reviewed the plan's assessment of solid waste collection cost impacts on rates charged by solid waste collection companies regulated under chapter 81.77 RCW and shall advise the county or city submitting the plan and the department of the probable effect of the plan's recommendations on those rates.

Sec. 13. Section 1, chapter 184, Laws of 1988 and RCW 70.95.280 are each amended to read as follows:

**WASTE STREAM MONITORING.** The department of ecology shall determine the best management practices for categories of solid waste in accordance with the priority solid waste management methods established in RCW 70.95.010. In order to make this determination, the department shall conduct a comprehensive solid waste stream analysis and evaluation. Following establishment of baseline data resulting from an initial in-depth analysis of the waste stream, the department shall develop a less intensive method of monitoring the disposed waste stream including, but not limited

to, changes in the amount of waste generated and waste type. The department shall monitor curbside collection programs and other waste segregation and disposal technologies to determine, to the extent possible, the effectiveness of these programs in terms of cost and participation, their applicability to other locations, and their implications regarding rules adopted under this chapter. Persons who collect solid waste shall annually report to the department the types and quantities of solid waste that are collected and where it is delivered. The department shall adopt guidelines for reporting and for keeping proprietary information confidential.

### III.

#### RECYCLING SERVICES

*\*Sec. 14. Section 35.21.120, chapter 7, Laws of 1965 as amended by section 18, chapter 282, Laws of 1985 and RCW 35.21.120 are each amended to read as follows:*

*Every city or town may by ordinance provide for the establishment of a system of ((garbage)) solid waste collection and disposal or recyclable materials collection and disposal, or both, for the entire city or town or for portions thereof, and award contracts for ((garbage)) solid waste collection and disposal and recyclable materials collection and disposal, or provide for it under the direction of officials and employees of the city or town. Contracts for solid waste handling may provide that a city or town pay a minimum periodic fee in consideration of the operational availability of a solid waste or recyclable materials handling system or plant, without regard to the ownership of the system or plant or the amount of solid waste or recyclable materials actually handled during all or any part of the contract period. There shall be included in the contract specific allocation of financial responsibility in cases where the amount of solid waste or recyclable materials handled during the contract period falls below the minimum level provided in the contract.*

*\*Sec. 14 was vetoed, see message at end of chapter.*

NEW SECTION. Sec. 15. A new section is added to chapter 36.58 RCW to read as follows:

**COUNTY SURCHARGE.** (1) The legislative authority of any county may impose a fee upon the solid waste collection services of a solid waste collection company operating within the unincorporated areas of the county, to fund the administration and planning expenses that may be incurred by the county in complying with the requirements in RCW 70.95.090. The fee may be in addition to any other solid waste services fees and charges a county may legally impose.

(2) Each county imposing the fee authorized by this section shall notify the Washington utilities and transportation commission and the affected solid waste collection companies of the amount of the fee ninety days prior to its implementation.

NEW SECTION. Sec. 16. A new section is added to chapter 70.95 RCW to read as follows:

**ECOLOGY/LOCAL HEALTH DEPARTMENT AGREEMENTS.**

Any jurisdictional health department and the department of ecology may enter into an agreement providing for the exercise by the department of ecology of any power that is specified in the contract and that is granted to the jurisdictional health department under this chapter. However, the jurisdictional health department shall have the approval of the legislative authority or authorities it serves before entering into any such agreement with the department of ecology.

**IV.**

**COLLECTION OF RECYCLABLES**

Sec. 17. Section 2, chapter 295, Laws of 1961 and RCW 81.77.010 are each amended to read as follows:

As used in this chapter:

(1) "Motor vehicle" means any truck, trailer, semitrailer, tractor or any self-propelled or motor driven vehicle used upon any public highway of this state for the purpose of transporting (~~garbage and refuse~~) solid waste, for the collection and/or disposal thereof;

(2) "Public highway" means every street, road, or highway in this state;

(3) "Common carrier" means any person who undertakes to transport (~~garbage and refuse~~) solid waste, for the collection and/or disposal thereof, by motor vehicle for compensation, whether over regular or irregular routes, or regular or irregular schedules;

(4) "Contract carrier" means all garbage and refuse transporters not included under the terms "common carrier" and "private carrier," as herein defined, and further, shall include any person who under special and individual contracts or agreements transports (~~garbage and refuse~~) solid waste by motor vehicle for compensation;

(5) "Private carrier" means a person who, in his own vehicle, transports (~~garbage or refuse~~) solid waste purely as an incidental adjunct to some other established private business owned or operated by him in good faith: PROVIDED, That a person who transports solid waste from residential sources in a vehicle designed or used primarily for 'he transport of solid waste shall not constitute a private carrier;

(6) "Vehicle" means every device capable of being moved upon a public highway and in, upon, or by which any (~~garbage or refuse~~) solid waste is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rail or tracks;

(7) "~~((Garbage and refuse))~~ Solid waste collection company" means every person or his lessees, receivers, or trustees, owning, controlling, operating or managing vehicles used in the business of transporting ~~((garbage and refuse))~~ solid waste for collection and/or disposal for compensation, except septic tank pumpers, over any public highway in this state whether as a "common carrier" thereof or as a "contract carrier" thereof;

(8) Solid waste collection does not include collecting or transporting recyclable materials from a drop-box or recycling buy-back center, nor collecting or transporting recyclable materials by or on behalf of a commercial or industrial generator of recyclable materials to a recycler for use or reclamation. Transportation of these materials is regulated under chapter 81.80 RCW; and

(9) "Solid waste" means the same as defined under RCW 70.95.030, except for the purposes of this chapter solid waste does not include recyclable materials except for source separated recyclable materials collected from residences.

Sec. 18. Section 3, chapter 295, Laws of 1961 and RCW 81.77.020 are each amended to read as follows:

No person, his lessees, receivers, or trustees, shall engage in the business of operating as a ~~((garbage and refuse))~~ solid waste collection company in this state, except in accordance with the provisions of this chapter: PROVIDED, That the provisions of this chapter shall not apply to the operations of any ~~((garbage and refuse))~~ solid waste collection company under a contract of ~~((garbage or refuse))~~ solid waste disposal with any city or town, nor to any city or town which itself undertakes the disposal of ~~((garbage or refuse))~~ solid waste.

NEW SECTION. Sec. 19. A new section is added to chapter 81.77 RCW to read as follows:

The provisions of chapter 81.77 RCW shall not apply to the collection or transportation of source separated recyclable materials from residences under a contract with any county, city, or town, nor to any city or town which itself undertakes the collection and transportation of source separated recyclable materials from residences.

Sec. 20. Section 4, chapter 295, Laws of 1961 as last amended by section 1, chapter 239, Laws of 1987 and RCW 81.77.030 are each amended to read as follows:

The commission shall supervise and regulate every ~~((garbage and refuse))~~ solid waste collection company in this state,

- (1) By fixing and altering its rates, charges, classifications, rules and regulations;
- (2) By regulating the accounts, service, and safety of operations;
- (3) By requiring the filing of annual and other reports and data;

(4) By supervising and regulating such persons or companies in all other matters affecting the relationship between them and the public which they serve;

(5) By ~~((reviewing))~~ requiring compliance with local solid waste management plans ~~((through letters of compliance submitted by the county legislative authority. The compliance letters shall become part of the record in any rate, compliance, or any hearing held by the commission on the issuance, revocation, or reissuance of a certificate as provided for in RCW 81.77.070))~~ and related implementation ordinances;

(6) By requiring certificate holders under chapter 81.77 RCW to use rate structures and billing systems consistent with the solid waste management priorities set forth under RCW 70.95.010 and the minimum levels of solid waste collection and recycling services pursuant to local comprehensive solid waste management plans. The commission may order consolidated billing and provide for reasonable and necessary expenses to be paid to the administering company if more than one certificate is granted in an area.

The commission, on complaint made on its own motion or by an aggrieved party, at any time, after the holding of a hearing of which the holder of any certificate has had notice and an opportunity to be heard, and at which it shall be proven that the holder has wilfully violated or refused to observe any of the commission's orders, rules, or regulations, or has failed to operate as a ~~((garbage and refuse))~~ solid waste collection company for a period of at least one year preceding the filing of the complaint, may suspend, revoke, alter, or amend any certificate issued under the provisions of this chapter.

Sec. 21. Section 5, chapter 295, Laws of 1961 as amended by section 2, chapter 239, Laws of 1987 and RCW 81.77.040 are each amended to read as follows:

No ~~((garbage and refuse))~~ solid waste collection company shall hereafter operate for the hauling of ~~((garbage and refuse))~~ solid waste for compensation without first having obtained from the commission a certificate declaring that public convenience and necessity require such operation. A condition of operating a ~~((garbage and refuse))~~ solid waste company in the unincorporated areas of a county shall be complying with the solid waste management plan prepared under chapter 70.95 RCW applicable in the company's franchise area.

Issuance of the certificate of necessity shall be determined upon, but not limited to, the following factors: The present service and the cost thereof for the contemplated area to be served; an estimate of the cost of the facilities to be utilized in the plant for ~~((garbage and refuse))~~ solid waste collection and disposal, sworn to before a notary public; a statement of the assets on hand of the person, firm, association or corporation which will be expended on the purported plant for ~~((garbage and refuse))~~ solid waste collection and disposal, sworn to before a notary public; a statement of prior



experience, if any, in such field by the petitioner, sworn to before a notary public; and sentiment in the community contemplated to be served as to the necessity for such a service.

Except as provided in section 29 of this act, when an applicant requests a certificate to operate in a territory already served by a certificate holder under this chapter, the commission may, after hearing, issue the certificate only if the existing (~~(garbage and refuse)~~) solid waste collection company or companies serving the territory will not provide service to the satisfaction of the commission.

In all other cases, the commission may, with or without hearing, issue certificates, or for good cause shown refuse to issue them, or issue them for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted such terms and conditions as, in its judgment, the public convenience and necessity may require.

Any right, privilege, certificate held, owned, or obtained by a (~~(garbage and refuse)~~) solid waste collection company may be sold, assigned, leased, transferred, or inherited as other property, but only upon authorization by the commission.

Any (~~(garbage and refuse)~~) solid waste collection company which upon July 1, 1961 is operating under authority of a common carrier or contract carrier permit issued under the provisions of chapter 81.80 RCW shall be granted a certificate of necessity without hearing upon compliance with the provisions of this chapter. Such (~~(garbage and refuse)~~) solid waste collection company which has paid the plate fee and gross weight fees required by chapter 81.80 RCW for the year 1961 shall not be required to pay additional like fees under the provisions of this chapter for the remainder of such year.

For purposes of issuing certificates under this chapter, the commission may adopt categories of solid wastes as follows: Garbage, refuse, recyclable materials, and demolition debris. A certificate may be issued for one or more categories of solid waste. Certificates issued on or before the effective date of this act shall not be expanded or restricted by operation of this chapter.

Sec. 22. Section 6, chapter 295, Laws of 1961 as amended by section 9, chapter 115, Laws of 1973 and RCW 81.77.050 are each amended to read as follows:

Any application for a certificate (~~(of public convenience and necessity)~~) issued under this chapter or amendment thereof, or application to sell, lease, mortgage, or transfer a certificate (~~(of public convenience and necessity)~~) issued under this chapter or any interest therein, shall be accompanied by such filing fee as the commission may prescribe by rule: PROVIDED, That such fee shall not exceed two hundred dollars.

Sec. 23. Section 7, chapter 295, Laws of 1961 and RCW 81.77.060 are each amended to read as follows:

The commission, in granting certificates to operate a (~~garbage and refuse~~) solid waste collection company, shall require the owner or operator to first procure liability and property damage insurance from a company licensed to make liability insurance in the state or a surety bond of a company licensed to write surety bonds in the state, on each motor propelled vehicle used or to be used in transporting (~~garbage or refuse~~) solid waste for compensation in the amount of not less than twenty-five thousand dollars for any recovery for personal injury by one person, and not less than ten thousand dollars and in such additional amount as the commission shall determine, for all persons receiving personal injury by reason of one act of negligence, and not less than ten thousand dollars for damage to property of any person other than the assured, and to maintain such liability and property damage insurance or surety bond in force on each motor propelled vehicle while so used. Each policy for liability or property damage insurance or surety bond required herein shall be filed with the commission and kept in full force and effect and failure so to do shall be cause for revocation of the delinquent's certificate.

Sec. 24. Section 9, chapter 295, Laws of 1961 as last amended by section 3, chapter 143, Laws of 1971 ex. sess. and RCW 81.77.080 are each amended to read as follows:

Every (~~garbage and refuse~~) solid waste collection company shall, on or before the 1st day of April of each year, file with the commission a statement on oath showing its gross operating revenue from intrastate operations for the preceding calendar year, or portion thereof, and pay to the commission a fee equal to (~~eight-tenths of~~) one percent of the amount of gross operating revenue: PROVIDED, That the fee shall in no case be less than one dollar.

It is the intent of the legislature that the fees collected under the provisions of this chapter shall reasonably approximate the cost of supervising and regulating motor carriers subject thereto, and to that end the utilities and transportation commission is authorized to decrease the schedule of fees provided in this section by general order entered before March 1st of any year in which it determines that the moneys then in the (~~garbage and refuse~~) solid waste collection companies account of the public service revolving fund and the fees currently to be paid will exceed the reasonable cost of supervising and regulating such carriers.

All fees collected under this section or under any other provision of this chapter shall be paid to the commission and shall be by it transmitted to the state treasurer within thirty days to be deposited to the credit of the public service revolving fund.

Sec. 25. Section 11, chapter 295, Laws of 1961 as amended by section 2, chapter 436, Laws of 1985 and RCW 81.77.100 are each amended to read as follows:

Neither this chapter nor any provision thereof shall apply, or be construed to apply, to commerce with foreign nations or commerce among the several states except insofar as the same may be permitted under the provisions of the Constitution of the United States and the acts of congress.

However, in order to protect public health and safety and to ensure ~~((garbage and refuse))~~ solid waste collection services are provided to all areas of the state, the commission, in accordance with this chapter, shall regulate all ~~((garbage or refuse))~~ solid waste collection companies conducting business in the state.

Sec. 26. Section 2, chapter 105, Laws of 1965 ex. sess. and RCW 81-.77.110 are each amended to read as follows:

The commission may with or without a hearing issue temporary certificates to engage in the business of operating a ~~((garbage and refuse))~~ solid waste collection company, but only after it finds that the issuance of such temporary certificate is consistent with the public interest. Such temporary certificate may be issued for a period up to one hundred eighty days where the area or territory covered thereby is not contained in the certificate of any other ~~((garbage and refuse))~~ solid waste collection company. In all other cases such temporary certificate may be issued for a period not to exceed one hundred twenty days. The commission may prescribe such special rules and regulations and impose such special terms and conditions with reference thereto as in its judgment are reasonable and necessary in carrying out the provisions of this chapter. The commission shall collect a fee of twenty-five dollars for an application for such temporary certificate.

Sec. 27. Section 1, chapter 58, Laws of 1975-'76 2nd ex. sess. and RCW 36.58.030 are each amended to read as follows:

As used in RCW 36.58.030 through 36.58.060, the term "transfer station" means a staffed, fixed supplemental facility used by persons and route collection vehicles to deposit solid wastes into transfer trailers for transportation to a disposal site. This does not include detachable containers, except in third class or smaller counties, and in any first class county located east of the crest of the Cascade mountain range, where detachable containers shall be securely fenced, staffed by an attendant during all hours when the detachable container is open to the public, charge a tipping fee that shall cover the cost of providing and for use of the service, and shall be operated as a transfer station.

Sec. 28. Section 2, chapter 58, Laws of 1975-'76 2nd ex. sess. as amended by section 20, chapter 282, Laws of 1986 and RCW 36.58.040 are each amended to read as follows:

The legislative authority of each county may by ordinance provide for the establishment of a system of solid waste disposal for all the unincorporated areas of the county or for portions thereof. Each county may designate disposal sites for all solid waste collected in the unincorporated areas

pursuant to the provisions of a comprehensive solid waste plan adopted pursuant to chapter 70.95 RCW: PROVIDED, That for any solid waste collected by a private hauler operating pursuant to a certificate granted by the Washington utilities and transportation commission under the provisions of chapter 81.77 RCW and which certificate is for collection in a geographic area lying in more than one county, such designation of disposal sites shall be pursuant to an interlocal agreement between the involved counties.

Such systems may also provide for the processing and conversion of solid wastes into other valuable or useful products with full jurisdiction and authority to construct, lease, purchase, acquire, manage, regulate, maintain, operate, and control such system and plants, and to enter into agreements with public or private parties providing for the construction, purchase, acquisition, lease, maintenance, and operation of systems and plants for the processing and conversion of solid wastes and for the sale of said products. Contracts shall be for facilities that are in substantial compliance with the solid waste management plans prepared pursuant to chapter 70.95 RCW.

The legislative authority of a county may award contracts for solid waste handling, and such contracts may provide that a county pay a minimum periodic fee in consideration of the operational availability of a solid waste handling system or plant, without regard to the ownership of the system or plant or the amount of solid waste actually handled during all or any part of the contractual period. There shall be included in the contract specific allocation of financial responsibility in cases where the amount of solid waste handled during the contract period falls below the minimum level provided in the contract.

The legislative authority of a county may:

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

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

This election may be made by counties at any time after the effective date of this act. An initial election must be made no later than ninety days following approval of the local comprehensive waste management plan required by section 3 of this act.

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

NEW SECTION. Sec. 29. A new section is added to chapter 81.77 RCW to read as follows:

(1) Beginning July 1, 1991, on its own motion, or upon petition by any person, the commission shall determine the competitiveness of a market for the collection of source separated recyclable materials from residences, except for markets served by cities or towns, or under contract with cities, towns, or counties. If the commission finds that the market is effectively competitive it shall award authority to collect such recyclable materials using a competitive bidding process. For purposes of this section "effective competition" means that:

(a) Sufficient competition exists to ensure that no single competitor can exercise undue market power in the bidding process; and

(b) Use of competitive bidding will result in cost-effective recycling.

(2) Authority awarded using competitive bidding shall last no longer than five years.

(3) The competitive bidding process shall be conducted according to commission rules. The selection of the winning bid shall be made by the local government with solid waste planning authority for the market area. The local government may reject all bids. After the local government has selected a winning bidder, that bidder shall be subject to commission jurisdiction for purposes of enforcing compliance with the terms of the bid. If the commission awards authority using competitive bidding, a local government may not use its option under section 18 of this act until the expiration of the authority.

The commission shall adopt rules to implement this section no later than October 1, 1990.

If the commission approves a program to collect source separated recyclables from residences from the effective date of this act through June 30, 1991, the approval shall not be for more than three years.

This section expires June 30, 1991.

**NEW SECTION.** Sec. 30. A new section is added to chapter 81.77 RCW to read as follows:

**PASS-THROUGH RATES.** The commission, in fixing and altering collection rates charged by every solid waste collection company under this section, shall include in the base for the collection rates:

(1) All charges for the disposal of solid waste at the facility or facilities that the solid waste collection company is required to use under a local comprehensive solid waste management plan or ordinance designating disposal sites; and

(2) All known and measurable costs related to implementation of the approved county or city comprehensive solid waste management plan.

If a solid waste collection company files a tariff to recover the costs specified under this section, and the commission suspends the tariff, the portion of the tariff covering costs specified in this section shall be placed in effect by the commission at the request of the company on an interim basis

as of the originally filed effective date, subject to refund, pending the commission's final order. The commission may adopt rules to implement this section.

**NEW SECTION.** Sec. 31. A new section is added to chapter 81.77 RCW to read as follows:

Nothing in this chapter shall prevent a recycling company or nonprofit entity from collecting and transporting recyclable materials from a buy-back center, drop-box, or from a commercial or industrial generator of recyclable materials, or upon agreement with a solid waste collection company.

Nothing in this chapter shall be construed as prohibiting a commercial or industrial generator of commercial recyclable materials from selling, conveying, or arranging for transportation of such material to a recycler for reuse or reclamation.

**NEW SECTION.** Sec. 32. A new section is added to chapter 70.95 RCW to read as follows:

Nothing in this chapter shall prevent a recycling company or nonprofit entity from collecting and transporting recyclable materials from a buy-back center, drop-box, or from a commercial or industrial generator of recyclable materials, or upon agreement with a solid waste collection company.

Nothing in this chapter shall be construed as prohibiting a commercial or industrial generator of commercial recyclable materials from selling, conveying, or arranging for transportation of such material to a recycler for reuse or reclamation.

**NEW SECTION.** Sec. 33. A new section is added to chapter 35.21 RCW to read as follows:

Nothing in this chapter shall prevent a recycling company or nonprofit entity from collecting and transporting recyclable materials from a buy-back center, drop-box, or from a commercial or industrial generator of recyclable materials, or upon agreement with a solid waste collection company.

Nothing in this chapter shall be construed as prohibiting a commercial or industrial generator of commercial recyclable materials from selling, conveying, or arranging for transportation of such material to a recycler for reuse or reclamation.

**NEW SECTION.** Sec. 34. A new section is added to chapter 36.58 RCW to read as follows:

Nothing in this chapter shall prevent a recycling company or nonprofit entity from collecting and transporting recyclable materials from a buy-back center, drop-box, or from a commercial or industrial generator of recyclable materials, or upon agreement with a solid waste collection company.

Nothing in this chapter shall be construed as prohibiting a commercial or industrial generator of commercial recyclable materials from selling, conveying, or arranging for transportation of such material to a recycler for reuse or reclamation.

NEW SECTION. Sec. 35. A new section is added to chapter 35A.21 RCW to read as follows:

Nothing in this chapter shall prevent a recycling company or nonprofit entity from collecting and transporting recyclable materials from a buy-back center, drop-box, or from a commercial or industrial generator of recyclable materials, or upon agreement with a solid waste collection company.

Nothing in this chapter shall be construed as prohibiting a commercial or industrial generator of commercial recyclable materials from selling, conveying, or arranging for transportation of such material to a recycler for reuse or reclamation.

NEW SECTION. Sec. 36. A new section is added to chapter 81.77 RCW to read as follows:

**DISPOSAL FEES IN RATES.** For rate-making purposes, a fee, charge, or tax on the disposal of solid waste shall be considered a normal operating expense of the solid waste collection company.

## V.

### VEHICLE BATTERIES

NEW SECTION. Sec. 37. A new section is added to chapter 70.95 RCW to read as follows:

**BATTERY DISPOSAL.** (1) No person may knowingly dispose of a vehicle battery except by delivery to: A person or entity selling lead acid batteries, a person or entity authorized by the department to accept the battery, or to a secondary lead smelter.

(2) No owner or operator of a solid waste disposal site shall knowingly accept for disposal used vehicle batteries except when authorized to do so by the department or by the federal government.

(3) Any person who violates this section shall be subject to a fine of up to one thousand dollars. Each battery will constitute a separate violation. Nothing in this section and sections 38 through 42 of this act shall supersede the provisions under chapter 70.105 RCW.

(4) For purposes of this section and sections 38 through 42 of this act, "vehicle battery" means batteries capable for use in any vehicle, having a core consisting of elemental lead, and a capacity of six or more volts.

NEW SECTION. Sec. 38. A new section is added to chapter 70.95 RCW to read as follows:

**IDENTIFICATION OF PERSONS ACCEPTING BATTERIES.** The department shall establish a procedure to identify, on an annual basis, those persons accepting used vehicle batteries from retail establishments.

**NEW SECTION.** Sec. 39. A new section is added to chapter 70.95 RCW to read as follows:

**ACCEPTING USED BATTERIES.** A person selling vehicle batteries at retail in the state shall:

(1) Accept, at the time of purchase of a replacement battery, in the place where the new batteries are physically transferred to the purchasers, and in a quantity at least equal to the number of new batteries purchased, used vehicle batteries from the purchasers, if offered by the purchasers. When a purchaser fails to provide an equivalent used battery or batteries, the purchaser may reclaim the core charge paid under section 40 of this act by returning, to the point of purchase within thirty days, a used battery or batteries and a receipt showing proof of purchase from the establishment where the replacement battery or batteries were purchased; and

(2) Post written notice which must be at least eight and one-half inches by eleven inches in size and must contain the universal recycling symbol and the following language:

(a) "It is illegal to put a motor vehicle battery or other vehicle battery in your garbage."

(b) "State law requires us to accept used motor vehicle batteries or other vehicle batteries for recycling, in exchange for new batteries purchased."

(c) "When you buy a battery, state law also requires us to include a core charge of five dollars or more if you do not return your old battery for exchange."

**NEW SECTION.** Sec. 40. A new section is added to chapter 70.95 RCW to read as follows:

**RETAIL CORE CHARGE.** Each retail sale of a vehicle battery shall include, in the price of the battery for sale, a core charge of not less than five dollars. When a purchaser offers the seller a used battery of equivalent size, the seller shall omit the core charge from the price of the battery.

**NEW SECTION.** Sec. 41. A new section is added to chapter 70.95 RCW to read as follows:

**WHOLESALE CORE CHARGE.** (1) A person selling vehicle batteries at wholesale to a retail establishment in this state shall accept, at the time and place of transfer, used vehicle batteries in a quantity at least equal to the number of new batteries purchased, if offered by the purchaser.

(2) When a battery wholesaler, or agent of the wholesaler, fails to accept used vehicle batteries as provided in this section, a retailer may file a complaint with the department and the department shall investigate any such complaint.

(3)(a) The department shall issue an order suspending any of the provisions of sections 39 through 42 of this act whenever it finds that the market price of lead has fallen to the extent that new battery wholesalers' estimated state-wide average cost of transporting used batteries to a smelter



or other person or entity in the business of purchasing used batteries is clearly greater than the market price paid for used lead batteries by such smelter or person or entity.

(b) The order of suspension shall only apply to batteries that are sold at retail during the period in which the suspension order is effective.

(c) The department shall limit its suspension order to a definite period not exceeding six months, but shall revoke the order prior to its expiration date should it find that the reasons for its issuance are no longer valid.

NEW SECTION. Sec. 42. A new section is added to chapter 70.95 RCW to read as follows:

**NOTICES—WARNINGS—CITATIONS.** The department shall produce, print, and distribute the notices required by section 39 of this act to all places where vehicle batteries are offered for sale at retail and in performing its duties under this section the department may inspect any place, building, or premise governed by section 40 of this act. Authorized employees of the agency may issue warnings and citations to persons who fail to comply with the requirements of sections 37 through 43 of this act. Failure to conform to the notice requirements of section 39 of this act shall subject the violator to a fine imposed by the department not to exceed one thousand dollars. However, no such fine shall be imposed unless the department has issued a warning of infraction for the first offense. Each day that a violator does not comply with the requirements of this act following the issuance of an initial warning of infraction shall constitute a separate offense.

NEW SECTION. Sec. 43. A new section is added to chapter 70.95 RCW to read as follows:

**RULES.** The department shall adopt rules providing for the implementation and enforcement of sections 37 through 42 of this act.

*\*Sec. 44. Section 82.04.070, chapter 15, Laws of 1961 and RCW 82-.04.070 are each amended to read as follows:*

**BUSINESS AND OCCUPATION TAX EXEMPTION.** *"Gross proceeds of sales" means the value proceeding or accruing from the sale of tangible personal property and/or for services rendered, without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses; PROVIDED, That "gross proceeds of sales" shall not include: (1) The value of core deposits or credits when received or transferred as consideration in a retail or wholesale sale. For purposes of this section, the term "core deposits or credits" means the amount representing the value of returnable products such as batteries, starters, brakes, and other products with returnable value added for the purpose of recycling or remanufacturing; or (2) the new tire fee imposed under section 92 of this act, upon the sale of a new replacement tire.*

*\*Sec. 44 was vetoed, see message at end of chapter.*

NEW SECTION. Sec. 45. A new section is added to chapter 82.08 RCW to read as follows:

**SALES TAX EXEMPTION.** The tax levied by RCW 82.08.020 shall not apply to consideration: (1) Received as core deposits or credits in a retail or wholesale sale; or (2) received or collected upon the sale of a new replacement vehicle tire as a fee imposed under section 92 of this act. For purposes of this section, the term "core deposits or credits" means the amount representing the value of returnable products such as batteries, starters, brakes, and other products with returnable value added for the purpose of recycling or remanufacturing.

NEW SECTION. Sec. 46. A new section is added to chapter 82.12 RCW to read as follows:

**USE TAX EXEMPTION.** The provisions of this chapter shall not apply: (1) To the value of core deposits or credits in a retail or wholesale sale; or (2) to the fees imposed under section 92 of this act upon the sale of a new replacement vehicle tire. For purposes of this section, the term "core deposits or credits" means the amount representing the value of returnable products such as batteries, starters, brakes, and other products with returnable value added for the purpose of recycling or remanufacturing.

## VI.

### PRODUCT PACKAGING

Sec. 47. Section 1, chapter 67, Laws of 1987 and RCW 43.21A.520 are each amended to read as follows:

**PRODUCT AWARDS.** (1) The department of ecology shall develop and implement an environmental excellence awards program that recognizes products that are produced, labeled, or packaged in a manner that helps ensure environmental protection. The award shall be in recognition of products that are made from recycled materials, easy to recycle, substitute for more hazardous products, or otherwise help protect the environment. Application for the award shall be voluntary. The awards may be made in ((the following)) a variety of product categories including, but not limited to:

- (a) Paint products;
- (b) Cleaning ((agents)) products;
- (c) ((Pesticides)) Pest control products;
- (d) Automotive, marine, and related maintenance products; ((and))
- (e) Hobby and recreation products; and
- (f) Any other product available for retail or wholesale sale.

(2) The state solid waste advisory committee shall establish an environmental excellence product award subcommittee to develop and recommend criteria for awarding environmental excellence awards for products. The subcommittee shall also review award applications and make recommendations to the department.

The subcommittee shall consist of equal representation of: (a) Product manufacturing or other business representatives; (b) environmental representatives; (c) labor or consumer representatives; and (d) independent technical experts. Members of the subcommittee need not necessarily be regular members of the state solid waste advisory committee.

(3) Products receiving an environmental excellence award pursuant to this section ((would)) shall be entitled to display a logo or other symbol developed by the department to signify the award. Awards shall be given each year to as many products as qualify. The award logo may be displayed for a period to be determined by the department.

NEW SECTION. Sec. 48. A new section is added to chapter 70.95C RCW to read as follows:

**TASK FORCE.** (1) The office shall establish a product packaging task force. The purpose of the task force shall be to investigate and evaluate methods to:

- (a) Reduce the volume or weight, or both, of product packaging entering the waste stream;
- (b) Reduce the toxicity of product packaging entering the waste stream;
- (c) Reduce the reliance on single use, disposable packaging;
- (d) Increase product packaging recycling; and
- (e) Increase public awareness of the contribution of packaging to the solid waste problem.

In fulfilling the purpose of this subsection, the task force shall consider all applicable federal and state packaging standards and requirements. The task force shall coordinate with regional or national groups, or both, engaged in evaluating packaging issues. Any standards recommended by this task force must consider available packaging materials, packaging weight or volume, or both, and educational package labeling.

The task force shall involve representatives from the department of trade and economic development, the department of ecology, the public, local governments, environmental associations, and industry, including but not limited to, product and packaging manufacturers, retail businesses, solid waste collection companies, and recycling businesses. However, fifty percent of the task force appointees shall be representative of industry.

The task force shall submit an action plan, including short and long-range recommendations, to achieve the purposes of this subsection to the legislature by January 2, 1991. The task force shall be terminated upon submittal of the plan to the legislature.

(2) The task force shall submit guidelines on product packaging to the environmental excellence product award subcommittee for purposes of the environmental excellence product award program by January 2, 1990.

NEW SECTION. Sec. 49. A new section is added to chapter 82.02 RCW to read as follows:

**PRODUCTS AND PRODUCT PACKAGING—STATE PRE-EMPTION.** (1) After April 1, 1989, the state preempts the field of imposing deposits or taxes upon a limited class of products and product packaging for the purpose of affecting the disposal of the product or the product packaging. The state shall have the exclusive authority to impose such deposits or taxes. No local or regional subdivision of the state shall have any authority to impose such a deposit or tax unless specifically granted authority by the state legislature. This section shall not apply to an ordinance or resolution adopted prior to April 1, 1989.

(2) This section shall expire July 1, 1993.

**NEW SECTION.** Sec. 50. A new section is added to chapter 70.95C RCW to read as follows:

**PRODUCTS AND PRODUCT PACKAGING—STATE PRE-EMPTION.** (1) After April 1, 1989, the state preempts the field of imposing prohibitions on the sale or distribution of products and product packaging for the purpose of affecting the disposal of the product or product packaging. The state shall have exclusive authority to impose such prohibitions or bans. No local or regional subdivision of the state shall have any authority to impose such a prohibition or ban on products or product packaging unless specifically granted such authority by the state legislature. This section shall not apply to an ordinance or resolution adopted prior to April 1, 1989.

This section shall expire July 1, 1993.

Sec. 51. Section 35.21.130, chapter 7, Laws of 1965 and RCW 35.21-.130 are each amended to read as follows:

A ~~((garbage))~~ solid waste or recyclable materials collection ordinance may:

(1) Require property owners and occupants of premises to use the ~~((garbage))~~ solid waste collection and disposal system or recyclable materials collection and disposal system, and to dispose of their ~~((garbage))~~ solid waste and recyclable materials as provided in the ordinance; PROVIDED, That a solid waste or recycling ordinance shall not require any retail enterprise engaged in the sale of consumer-packaged products to locate or place a public recycling collection site or buy-back center upon or within a certain distance of the retail establishment as a condition of engaging in the sale of consumer-packaged products; and

(2) Fix charges for ~~((garbage))~~ solid waste collection and disposal, recyclable materials collection and disposal, or both, and the manner and time of payment therefor including therein a provision that upon failure to pay the charges, the amount thereof shall become a lien against the property for which the ~~((garbage))~~ solid waste or recyclable materials collection service is rendered. The ordinance may also provide penalties for its violation.

Sec. 52. Section 36.58.010, chapter 4, Laws of 1963 and RCW 36.58-.010 are each amended to read as follows:

Any (~~board of county commissioners~~) county legislative authority may acquire by purchase or by gift, dedication, or donation, (~~garbage~~) sites for the use of the public in disposing of (~~garbage and refuse~~) solid waste or recyclable materials. However, no county legislative authority shall be authorized to require any retail enterprise engaged in the sale of consumer-packaged products to locate or place a public solid waste collection site or buy-back center upon or within a certain distance of the retail establishment as a condition of engaging in the sale of consumer-packaged products.

## VII.

### STATE GOVERNMENT WASTE REDUCTION AND RECYCLING

NEW SECTION. Sec. 53. A new section is added to chapter 70.95C RCW to read as follows:

**WASTE REDUCTION AND RECYCLING PLAN.** The legislature finds and declares that the buildings and facilities owned and leased by state government produce significant amounts of solid and hazardous wastes, and actions must be taken to reduce and recycle these wastes and thus reduce the costs associated with their disposal. In order for the operations of state government to provide the citizens of the state an example of positive waste management, the legislature further finds and declares that state government should undertake an aggressive program designed to reduce and recycle solid and hazardous wastes produced in the operations of state buildings and facilities to the maximum extent possible.

The office of waste reduction, in cooperation with the department of general administration, shall establish an intensive waste reduction and recycling program to promote the reduction of waste produced by state agencies and to promote the source separation and recovery of recyclable and reusable materials.

All state agencies, including but not limited to, colleges, community colleges, universities, offices of elected and appointed officers, the supreme court, court of appeals, and administrative departments of state government shall fully cooperate with the office of waste reduction and recycling in all phases of implementing the provisions of this section. The office shall establish a coordinated state plan identifying each agency's participation in waste reduction and recycling. The office shall develop the plan in cooperation with a multi-agency committee on waste reduction and recycling. Appointments to the committee shall be made by the director of the department of general administration. The director shall notify each agency of the committee, which shall implement the applicable waste reduction and recycling plan elements. All state agencies are to use maximum efforts to achieve a goal of increasing the use of recycled paper by fifty percent by July 1, 1993.

**NEW SECTION.** Sec. 54. A new section is added to chapter 70.95C RCW to read as follows:

**WASTE REDUCTION AND RECYCLING AWARDS PROGRAM.** The office of waste reduction shall develop, in consultation with the superintendent of public instruction, an awards program to achieve waste reduction and recycling in the public schools, grades kindergarten through high school. The office shall develop guidelines for program development and implementation. Each public school shall implement a waste reduction and recycling program conforming to guidelines developed by the office.

For the purpose of granting awards, the office may group schools into not more than three classes, based upon student population, distance to markets for recyclable materials, and other criteria, as deemed appropriate by the office. Awards shall be granted each year to the schools that achieve the greatest levels of waste reduction and recycling. Each award shall be of a sum not less than ten thousand dollars. The office shall also develop recommendations for an awards program for waste reduction in the public schools. The office shall submit these recommendations to the appropriate standing committees in the house of representatives and senate on or before November 30, 1989.

The superintendent of public instruction shall distribute guidelines and other materials developed by the office to implement programs to reduce and recycle waste generated in administrative offices, classrooms, laboratories, cafeterias, and maintenance operations.

**NEW SECTION.** Sec. 55. A new section is added to chapter 70.95 RCW to read as follows:

No solid waste incineration or energy recovery facility shall be operated prior to the completion of an environmental impact statement containing the considerations required under RCW 43.21C.030(2)(c) and prepared pursuant to the procedures of chapter 43.21C RCW. This section does not apply to a facility operated prior to January 1, 1989, as a solid waste incineration facility or energy recovery facility burning solid waste.

## VIII.

### PREFERENTIAL RECYCLING PRODUCT PURCHASES

Sec. 56. Section 2, chapter 120, Laws of 1987 as amended by section 3, chapter 168, Laws of 1988 and RCW 35.23.352 are each amended to read as follows:

(1) Any second or third class city or any town may construct any public works, as defined in RCW 39.04.010, by contract or day labor without calling for bids therefor whenever the estimated cost of the work or improvement, including cost of materials, supplies and equipment will not exceed the sum of thirty thousand dollars if more than one craft or trade is involved with the public works, or twenty thousand dollars if a single craft or trade is involved with the public works or the public works project is

street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

Whenever the cost of the public work or improvement, including materials, supplies and equipment, will exceed these figures, the same shall be done by contract. All such contracts shall be let at public bidding upon posting notice calling for sealed bids upon the work. The notice thereof shall be posted in a public place in the city or town and by publication in the official newspaper, or a newspaper of general circulation most likely to bring responsive bids, once each week for two consecutive weeks before the date fixed for opening the bids. The notice shall generally state the nature of the work to be done that plans and specifications therefor shall then be on file in the city or town hall for public inspections, and require that bids be sealed and filed with the council or commission within the time specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit. The council or commission of the city or town shall let the contract to the lowest responsible bidder or shall have power by resolution to reject any or all bids and to make further calls for bids in the same manner as the original call.

When the contract is let then all bid proposal deposits shall be returned to the bidders except that of the successful bidder which shall be retained until a contract is entered into and a bond to perform the work furnished, with surety satisfactory to the council or commission, in the full amount of the contract price. If the bidder fails to enter into the contract in accordance with his bid and furnish a bond within ten days from the date at which he is notified that he is the successful bidder, the check or postal money order and the amount thereof shall be forfeited to the council or commission or the council or commission shall recover the amount of the surety bond.

If no bid is received on the first call the council or commission may readvertise and make a second call, or may enter into a contract without any further call or may purchase the supplies, material or equipment and perform the work or improvement by day labor.

(2) The allocation of public works projects to be performed by city or town employees shall not be subject to a collective bargaining agreement.

(3) In lieu of the procedures of subsection (1) of this section, a second or third class city or a town may use a small works roster and award contracts under this subsection for contracts of one hundred thousand dollars or less.

(a) The city or town may maintain a small works roster comprised of all contractors who have requested to be on the roster and are, where required by law, properly licensed or registered to perform such work in this state.

(b) Whenever work is done by contract, the estimated cost of which is one hundred thousand dollars or less, and the city uses the small works roster, the city or town shall invite proposals from all appropriate contractors on the small works roster: **PROVIDED**, That whenever possible, the city or town shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section. The invitation shall include an estimate of the scope and nature of the work to be performed, and materials and equipment to be furnished.

(c) When awarding such a contract for work, the estimated cost of which is one hundred thousand dollars or less, the city or town shall award the contract to the contractor submitting the lowest responsible bid.

(4) After September 1, 1987, each second class city, third class city, and town shall use the form required by RCW 43.09.205 to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of the materials, equipment, supplies, and labor on that construction project.

(6) Any purchase of supplies, material, equipment or services other than professional services, except for public work or improvement, where the cost thereof exceeds seven thousand five hundred dollars shall be made upon call for bids: **PROVIDED**, That the limitations herein shall not apply to any purchases of materials at auctions conducted by the government of the United States, any agency thereof or by the state of Washington or a political subdivision thereof.

(7) Bids shall be called annually and at a time and in the manner prescribed by ordinance for the publication in a newspaper published or of general circulation in the city or town of all notices or newspaper publications required by law. The contract shall be awarded to the lowest responsible bidder.

(8) For advertisement and competitive bidding to be dispensed with as to purchases between seven thousand five hundred and fifteen thousand dollars, the city legislative authority must authorize by resolution a procedure for securing telephone and/or written quotations from enough vendors to assure establishment of a competitive price and for awarding the contracts for purchase of materials, equipment, or services to the lowest responsible bidder. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry.



(9) These requirements for purchasing may be waived by resolution of the city or town council which declared that the purchase is clearly and legitimately limited to a single source or supply within the near vicinity, or the materials, supplies, equipment, or services are subject to special market conditions, and recites why this situation exists. Such actions are subject to RCW 39.30.020.

(10) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

(11) Nothing in this section shall prohibit any second or third class city or any town from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

Sec. 57. Section 36.32.250, chapter 4, Laws of 1963 as last amended by section 9, chapter 169, Laws of 1985 and by section 1, chapter 369, Laws of 1985 and RCW 36.32.250 are each reenacted and amended to read as follows:

No contract, lease, or purchase may be entered into by the county legislative authority or by any elected or appointed officer of such county until after bids have been submitted to the county upon specifications therefor. Such specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection, and an advertisement thereof stating the time and place where bids will be opened, the time after which bids will not be received, the character of the work to be done, or material, equipment, or service to be purchased, and that specifications therefor may be seen at the office of the clerk of the county legislative authority, shall be published in the county official newspaper: PROVIDED, That advertisements for public works contracts for construction, alteration, repair, or improvement of public facilities shall be additionally published in a legal newspaper of general circulation in or as near as possible to that part of the county in which such work is to be done: AND PROVIDED FURTHER, That if the county official newspaper is a newspaper of general circulation covering at least forty percent of the residences in that part of the county in which such public works are to be done publication of an advertisement of the applicable specifications in the county official newspaper only shall be sufficient. Such advertisements shall be published at least once in each week for two consecutive weeks prior to the last date upon which bids will be received and as many additional publications as shall be determined by the county legislative authority. The bids shall be in writing, shall be filed with the clerk, shall be opened and read in public at the time and place named therefor in said advertisements, and after being opened, shall be filed for public inspection. No bid may be considered for public work unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed. The contract for the

public work, lease, or purchase shall be awarded to the lowest responsible bidder, taking into consideration the quality of the articles or equipment to be purchased or leased. Any or all bids may be rejected for good cause. The county legislative authority shall require from the successful bidder for such public work a contractor's bond in the amount and with the conditions imposed by law. If the bidder to whom the contract is awarded fails to enter into the contract and furnish the contractor's bond as required within ten days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be forfeited to the county and the contract awarded to the next lowest and best bidder. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the county legislative authority. In the letting of any contract, lease, or purchase involving less than three thousand five hundred dollars, advertisement and competitive bidding may be dispensed with on order of the county legislative authority. Notice of intention to let contracts or to enter into lease agreements involving amounts exceeding one thousand dollars but less than three thousand five hundred dollars, shall be posted by the county legislative authority on a bulletin board in its office not less than three days prior to making such lease or contract. For advertisement and competitive bidding to be dispensed with as to purchases between one thousand and three thousand five hundred dollars, the county legislative authority must authorize by resolution a county procedure for securing telephone or written quotations, or both, from enough vendors to assure establishment of a competitive price and for awarding such contracts for purchase of materials, equipment, or services to the lowest responsible bidder. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry. Wherever possible, supplies shall be purchased in quantities for a period of at least three months, and not to exceed one year. Supplies generally used throughout the various departments shall be standardized insofar as possible, and may be purchased and stored for general use by all of the various departments which shall be charged for the supplies when withdrawn from the purchasing department.

This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

Nothing in this section shall prohibit the legislative authority of any county from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

Sec. 58. Section 1, chapter 72, Laws of 1985 and RCW 39.30.040 are each amended to read as follows:

(1) Whenever a unit of local government is required to make purchases from the lowest bidder or from the supplier offering the lowest price for the

items desired to be purchased, the unit of local government may, at its option when awarding a purchase contract, take into consideration tax revenue it would receive from purchasing the supplies, materials, or equipment from a supplier located within its boundaries. The unit of local government must award the purchase contract to the lowest bidder after such tax revenue has been considered. However, any local government may allow for preferential purchase of products made from recycled materials or products that may be recycled or reused. The tax revenues which units of local government may consider include sales taxes that the unit of local government imposes upon the sale of such supplies, materials, or equipment from the supplier to the unit of local government, and business and occupation taxes that the unit of local government imposes upon the supplier that are measured by the gross receipts of the supplier from such sale. Any unit of local government which considers tax revenues it would receive from the imposition of taxes upon a supplier located within its boundaries, shall also consider tax revenues it would receive from taxes it imposes upon a supplier located outside its boundaries.

(2) As used in this section, the term "unit of local government" means any county, city, town, metropolitan municipal corporation, public transit benefit area, county transportation authority, or other municipal or quasi-municipal corporation authorized to impose sales and use taxes or business and occupation taxes.

Sec. 59. Section 1, chapter 120, Laws of 1987 and RCW 35.22.620 are each amended to read as follows:

(1) As used in this section, the term "public works" means as defined in RCW 39.04.010.

(2) A first class city may have public works performed by contract pursuant to public notice and call for competitive bids. As limited by subsection (3) of this section, a first class city may have public works performed by city employees in any annual or biennial budget period equal to a dollar value not exceeding ten percent of the public works construction budget, including any amount in a supplemental public works construction budget, over the budget period. The amount of public works that a first class city has a county perform for it under RCW 35.77.020 shall be included within this ten percent limitation.

If a first class city has public works performed by public employees in any budget period that are in excess of this ten percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that city in its next budget period. Twenty percent of the motor vehicle fuel tax distributions to that city shall be withheld if two years after the year in which the excess amount of work occurred, the city has failed to so reduce the amount of public works that it has performed by public employees. The amount so withheld shall be distributed to the city

when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been so reduced.

Whenever a first class city has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works within that budget period shall be done by contract pursuant to public notice and call for competitive bids.

The state auditor shall report to the state treasurer any first class city that exceeds this amount and the extent to which the city has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(3) In addition to the percentage limitation provided in subsection (2) of this section, a first class city with a population in excess of one hundred fifty thousand shall not have public employees perform a public works project in excess of fifty thousand dollars if more than a single craft or trade is involved with the public works project, or a public works project in excess of twenty-five thousand dollars if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. In addition to the percentage limitation provided in subsection (2) of this section, a first class city with a population of one hundred fifty thousand or less shall not have public employees perform a public works project in excess of thirty-five thousand dollars if more than one craft or trade is involved with the public works project, or a public works project in excess of twenty thousand dollars if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

(4) In addition to the accounting and record-keeping requirements contained in RCW 39.04.070, every first class city annually shall prepare a report for the state auditor indicating the total public works construction budget and supplemental public works construction budget for that year, the total construction costs of public works performed by public employees for that year, and the amount of public works that is performed by public employees above or below ten percent of the total construction budget. However, if a city budgets on a biennial basis, this annual report shall indicate the amount of public works that is performed by public employees within the current biennial period that is above or below ten percent of the total biennial construction budget.

After September 1, 1987, each first class city with a population of one hundred fifty thousand or less shall use the form required by RCW 43.09-.205 to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the value of all the separate public works projects within the budget.

(6) When any emergency shall require the immediate execution of such public work, upon the finding of the existence of such emergency by the authority having power to direct such public work to be done and duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work. Within two weeks of the finding that such an emergency existed, the city council shall adopt a resolution certifying the existence of this emergency situation.

(7) In lieu of the procedures of subsections (2) and (6) of this section, a first class city may use a small works roster and award contracts under this subsection for contracts of one hundred thousand dollars or less.

(a) The city may maintain a small works roster comprised of all contractors who have requested to be on the roster and are, where required by law, properly licensed or registered to perform such work in this state.

(b) Whenever work is done by contract, the estimated cost of which is one hundred thousand dollars or less, and the city uses the small works roster, the city shall invite proposals from all appropriate contractors on the small works roster: PROVIDED, That not less than five separate appropriate contractors, if available, shall be invited to submit bids on any one contract: PROVIDED FURTHER, That whenever possible, the city shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section. Once a bidder on the small works roster has been offered an opportunity to bid, that bidder shall not be offered another opportunity until all other appropriate contractors on the small works roster have been afforded an opportunity to submit a bid. Invitations shall include an estimate of the scope and nature of the work to be performed, and materials and equipment to be furnished.

(c) When awarding such a contract for work, the estimated cost of which is one hundred thousand dollars or less, the city shall award the contract to the contractor submitting the lowest responsible bid.

(8) The allocation of public works projects to be performed by city employees shall not be subject to a collective bargaining agreement.

(9) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

(10) Nothing in this section shall prohibit any first class city from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

Sec. 60. Section 43.19.1911, chapter 8, Laws of 1965 as last amended by section 4, chapter 183, Laws of 1983 and RCW 43.19.1911 are each amended to read as follows:

When purchases are made through competitive bidding, the contract shall be let to the lowest responsible bidder, subject to any preferences provided by law to Washington products and vendors and to RCW 43.19.704, taking into consideration the quality of the articles proposed to be supplied, their conformity with specifications, the purposes for which required, and the times of delivery: PROVIDED, That whenever there is reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the division of purchasing may call for new bids or enter into direct negotiations to achieve the best possible price. Each bid with the name of the bidder shall be entered of record and each record, with the successful bid indicated, shall, after letting of the contract, be open to public inspection. In determining "lowest responsible bidder", in addition to price, the following elements shall be given consideration:

(1) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;

(2) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

(3) Whether the bidder can perform the contract within the time specified;

(4) The quality of performance of previous contracts or services;

(5) The previous and existing compliance by the bidder with laws relating to the contract or services;

(6) Such other information as may be secured having a bearing on the decision to award the contract: PROVIDED, That in considering bids for purchase, manufacture, or lease, and in determining the "lowest responsible bidder," whenever there is reason to believe that applying the "life cycle costing" technique to bid evaluation would result in lowest total cost to the state, first consideration shall be given by state purchasing activities to the bid with the lowest life cycle cost which complies with specifications. "Life cycle cost" means the total cost of an item to the state over its estimated useful life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life. The "estimated useful life" of an item means the estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner. Nothing in this section shall prohibit any state agency, department, board, commission, committee, or other state-level entity from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

## IX.

## MARKETING OF RECYCLABLE MATERIALS

Sec. 61. Section 1, chapter 40, Laws of 1982 1st ex. sess. as last amended by section 1, chapter 422, Laws of 1987 and RCW 43.160.010 are each amended to read as follows:

**FINDINGS REGARDING RECYCLING MARKETS.** (1) The legislature finds that it is the public policy of the state of Washington to direct financial resources toward the fostering of economic development through the stimulation of investment and job opportunities and the retention of sustainable existing employment for the general welfare of the inhabitants of the state. Reducing unemployment and reducing the time citizens remain jobless is important for the economic welfare of the state. A valuable means of fostering economic development is the construction of public facilities which contribute to the stability and growth of the state's economic base. Strengthening the economic base through issuance of industrial development bonds, whether single or umbrella, further serves to reduce unemployment. Consolidating issues of industrial development bonds when feasible to reduce costs additionally advances the state's purpose to improve economic vitality. Expenditures made for these purposes as authorized in this chapter are declared to be in the public interest, and constitute a proper use of public funds. A community economic revitalization board is needed which shall aid the development of economic opportunities. The general objectives of the board should include:

(a) Strengthening the economies of areas of the state which have experienced or are expected to experience chronically high unemployment rates or below average growth in their economies;

(b) Encouraging the diversification of the economies of the state and regions within the state in order to provide greater seasonal and cyclical stability of income and employment;

(c) Encouraging wider access to financial resources for both large and small industrial development projects;

(d) Encouraging new economic development or expansions to maximize employment;

(e) Encouraging the retention of viable existing firms and employment; and

(f) Providing incentives for expansion of employment opportunities for groups of state residents that have been less successful relative to other groups in efforts to gain permanent employment.

(2) The legislature also finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to improve state highways in the vicinity of new industries considering locating in this state or existing industries that are considering significant expansion.

(a) The legislature finds it desirable to provide a process whereby the need for diverse public works improvements necessitated by planned economic development can be addressed in a timely fashion and with coordination among all responsible governmental entities.

(b) It is the intent of the legislature to create an economic development account within the motor vehicle fund from which expenditures can be made by the department of transportation for state highway improvements necessitated by planned economic development. All such improvements must first be approved by the state transportation commission and the community economic revitalization board in accordance with the procedures established by RCW 43.160.074 and 47.01.280. It is further the intent of the legislature that such improvements not jeopardize any other planned highway construction projects. The improvements are intended to be of limited size and cost, and to include such items as additional turn lanes, signalization, illumination, and safety improvements.

(3) The legislature also finds that the state's economic development efforts can be enhanced by providing funds to improve markets for those recyclable materials representing a large fraction of the waste stream. The legislature finds that public facilities which result in private construction of processing or remanufacturing facilities for recyclable materials are eligible for consideration from the board.

Sec. 62. Section 6, chapter 40, Laws of 1982 1st ex. sess. as last amended by section 5, chapter 422, Laws of 1987 and RCW 43.160.060 are each amended to read as follows:

**COMMUNITY ECONOMIC REVITALIZATION BOARD LOANS AND GRANTS.** The board is authorized to make direct loans to political subdivisions of the state for the purposes of assisting the political subdivisions in financing the cost of public facilities, including development of land and improvements for public facilities, as well as the acquisition, construction, rehabilitation, alteration, expansion, or improvement of the facilities. A grant may also be authorized for purposes designated in this chapter, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision.

Application for funds shall be made in the form and manner as the board may prescribe. In making grants or loans the board shall conform to the following requirements:

(1) The board shall not make a grant or loan:

(a) For a project the primary purpose of which is to facilitate or promote a retail shopping development or expansion.

(b) For any project that probably would result in a development or expansion that would displace existing jobs in any other community in the state.

(c) For the acquisition of real property, including buildings and other fixtures which are a part of real property.



(2) The board shall only make grants or loans:

(a) For those projects which would result in specific private developments or expansions (i) in manufacturing, production, food processing, assembly, warehousing, and industrial distribution((:)); (ii) for processing recyclable materials or for facilities that support recycling, including processes not currently provided in the state, including but not limited to, de-inking facilities, mixed waste paper, plastics, yard waste, and problem-waste processing; (iii) for manufacturing facilities that rely significantly on recyclable materials, including but not limited to waste tires and mixed waste paper; or ((~~iii~~)) (iv) which substantially support the trading of goods or services outside of the state's borders.

(b) For projects which it finds will improve the opportunities for the successful maintenance, establishment, or expansion of industrial or commercial plants or will otherwise assist in the creation or retention of long-term economic opportunities.

(c) When the application includes convincing evidence that a specific private development or expansion is ready to occur and will occur only if the grant or loan is made.

(3) The board shall prioritize each proposed project according to the number of jobs it would create after the project is completed and according to the unemployment rate in the area in which the jobs would be located. As long as there is more demand for loans or grants than there are funds available for loans or grants, the board is instructed to fund projects in order of their priority.

(4) A responsible official of the political subdivision shall be present during board deliberations and provide information that the board requests.

Before any loan or grant application is approved, the political subdivision seeking the loan or grant must demonstrate to the community economic revitalization board that no other timely source of funding is available to it at costs reasonably similar to financing available from the community economic revitalization board.

NEW SECTION. Sec. 63. A new section is added to chapter 43.160 RCW to read as follows:

**ECOLOGY REVIEW.** (1) Before board consideration of an application from a political subdivision that includes a request for assistance in financing the cost of public facilities to encourage the development of a private facility to process recyclable materials, the application shall be forwarded by the board to the department of ecology.

(2) The department of ecology shall submit a recommendation on all applications related to processing recyclable materials to the board for their consideration.

(3) Upon receiving an application for assistance in financing the cost of public facilities to encourage the development of a private facility to process

recyclable materials from the board, the department of ecology shall, within thirty days, determine whether or not the proposed assistance:

(a) Has a significant impact on the residential and commercial waste stream;

(b) Results in a product that has a ready market;

(c) Does not jeopardize any other planned market development projects; and

(d) Results in a product that would otherwise be purchased out-of-state.

(4) Upon completion of its determination of the factors contained in subsection (3) of this section and any other factors it deems pertinent, the department of ecology shall forward its recommended approval, as submitted or amended, or recommended disapproval of the proposed improvements to the board, along with any recommendation it may wish to make concerning the desirability and feasibility of the proposed market development. If the department of ecology recommends disapproval of any proposed project, it shall specify its reasons for recommending disapproval.

(5) The board shall notify the department of ecology of its decision regarding any application made under this section.

**NEW SECTION.** Sec. 64. A new section is added to chapter 43.31 RCW to read as follows:

**DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT.** (1) The department is the lead state agency to assist in establishing and improving markets for recyclable materials generated in the state. This priority on creating and expanding a recyclables market should be fully integrated into the current targeted sector marketing programs of the department. In carrying out these marketing responsibilities, the department shall work closely with the office of waste reduction in the department of ecology.

(2) The department of trade and economic development, with the assistance of the department of ecology and the committee for recycling markets created by section 100 of this act, shall develop programs to accomplish the following:

(a) Develop new markets inside and outside this state for recycled materials;

(b) Attract new businesses to this state whose purpose is to use recycled materials;

(c) Educate businesses and consumers about the high quality of Washington recycled materials;

(d) Promote business and consumer use of products made from recycled materials;

(e) Provide technical market assistance to businesses and local governments;

(f) Cooperate with and secure the cooperation of any department, agency, commission, or instrumentality in state or local government affected by or concerned with market development; and

(g) Create and maintain a list of recyclers, collectors, and other persons or entities interested in the development of markets for recycling and solicit the opinions of those persons with respect to market development.

## X.

### CERTIFICATION OF LANDFILL AND INCINERATOR OPERATORS

NEW SECTION. Sec. 65. DEFINITIONS. Unless the context clearly requires otherwise the definitions in this section apply throughout this chapter.

(1) "Board" means the board of advisors for solid waste incinerator and landfill operator certification established by section 69 of this act.

(2) "Certificate" means a certificate of competency issued by the director stating that the operator has met the requirements for the specified operator classification of the certification program.

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

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

(5) "Incinerator" means a facility which has the primary purpose of burning or which is designed with the primary purpose of burning solid waste or solid waste derived fuel, but excludes facilities that have the primary purpose of burning hog fuel.

(6) "Landfill" means a landfill as defined under RCW 70.95.030.

(7) "Owner" means, in the case of a town or city, the city or town acting through its chief executive officer or the lessee if operated pursuant to a lease or contract; in the case of a county, the chief elected official of the county legislative authority or the chief elected official's designee; in the case of a board of public utilities, association, municipality, or other public body, the president or chief elected official of the body or the president's or chief elected official's designee; in the case of a privately owned landfill or incinerator, the legal owner.

(8) "Solid waste" means solid waste as defined under RCW 70.95.030.

NEW SECTION. Sec. 66. CERTIFIED INCINERATION FACILITY OPERATORS. (1) By January 1, 1992, the owner or operator of a solid waste incineration facility shall employ a certified operator. At a minimum, the individual on-site at a solid waste incineration facility who is designated by the owner as the operator in responsible charge of the operation and maintenance of the facility on a routine basis shall be certified by the department.

(2) If a solid waste incinerator is operated on more than one daily shift, the operator in charge of each shift shall be certified.

(3) Operators not required to be certified are encouraged to become certified on a voluntary basis.

(4) The department shall adopt and enforce such rules as may be necessary for the administration of this section.

**NEW SECTION. Sec. 67. CERTIFIED LANDFILL OPERATORS.**

(1) By January 1, 1992, the owner or operator of a landfill shall employ a certified landfill operator.

(2) For each of the following types of landfills defined in existing regulations: Inert, demolition waste, problem waste, and municipal solid waste, the department shall adopt rules classifying all landfills in each class. The factors to be considered in the classification shall include, but not be limited to, the type and amount of waste in place and projected to be disposed of at the site, whether the landfill currently meets state and federal operating criteria, the location of the landfill, and such other factors as may be determined to affect the skill, knowledge, and experience required of an operator to operate the landfill in a manner protective of human health and the environment.

(3) The rules shall identify the landfills in each class in which the owner or operator will be required to employ a certified landfill operator who is on-site at all times the landfill is operating. At a minimum, the rule shall require that owners and operators of landfills are required to employ a certified landfill operator who is on call at all times the landfill is operating.

**NEW SECTION. Sec. 68. CERTIFICATION PROCESS.** (1) The department shall establish a process to certify incinerator and landfill operators. To the greatest extent possible, the department shall rely on the certification standards and procedures developed by national organizations and the federal government.

(2) Operators shall be certified if they:

- (a) Attend the required training sessions;
- (b) Successfully complete required examinations; and
- (c) Pay the prescribed fee.

(3) By January 1, 1991, the department shall adopt rules to require incinerator and appropriate landfill operators to:

(a) Attend a training session concerning the operation of the relevant type of landfill or incinerator;

(b) Demonstrate sufficient skill and competency for proper operation of the incinerator or landfill by successfully completing an examination prepared by the department; and

(c) Renew the certificate of competency at reasonable intervals established by the department.

(4) The department shall provide for the collection of fees for the issuance and renewal of certificates. These fees shall be sufficient to recover the costs of the certification program.

(5) The department shall establish an appeals process for the denial or revocation of a certificate.

(6) The department shall establish a process to automatically certify operators who have received comparable certification from another state, the federal government, a local government, or a professional association.

(7) Upon the effective date of this act and prior to January 1, 1992, the owner or operator of an incinerator or landfill may apply to the department for interim certification. Operators shall receive interim certification if they:

(a) Have received training provided by a recognized national organization, educational institution, or the federal government that is acceptable to the department; or

(b) Have received individualized training in a manner approved by the department; and

(c) Have successfully completed any required examinations.

(8) No interim certification shall be valid after January 1, 1992, and interim certification shall not automatically qualify operators for certification pursuant to subsections (2) through (4) of this section.

**NEW SECTION, Sec. 69. BOARD OF ADVISORS.** (1) A board of advisors for solid waste incinerator and landfill operator certification shall be established. The board shall be a subcommittee of the solid waste advisory committee created under RCW 70.95.040 and shall be comprised of five members appointed by the director. The members shall be knowledgeable about solid waste handling technologies including but not limited to combustion boiler and pollution control technologies and their potential environmental impacts such as air emissions and ash residues. Collectively, the committee shall include at least two members who are knowledgeable about the operation and management of landfills and are certified by a national organization or the federal government as landfill operators.

(2) This board shall act as an advisory committee to the department and shall review and comment on the rules adopted under this chapter.

**NEW SECTION, Sec. 70. REVOCATION OF CERTIFICATION.** (1) The director may, with the recommendation of the board and after a hearing before the board, revoke a certificate:

(a) If it were found to have been obtained by fraud or deceit;

(b) For gross negligence in the operation of a solid waste incinerator or landfill;

(c) For violating the requirements of this chapter or any lawful rule or order of the department; or

(d) If the facility operated by the certified employee is operated in violation of state or federal environmental laws.

(2) A person whose certificate is revoked under this section shall not be eligible to apply for a certificate for one year from the effective date of the final order or revocation.

**NEW SECTION. Sec. 71. CERTIFICATION OF INSPECTORS.** Any person who is employed by a public agency to inspect the operation of a landfill or a solid waste incinerator to determine the compliance of the facility with state or local laws or rules shall be required to be certified in the same manner as an operator under this chapter.

**NEW SECTION. Sec. 72. AUTHORITY OF DIRECTOR.** To carry out the provisions and purposes of this chapter, the director may:

(1) Enter into agreements, contracts, or cooperative arrangements, under such terms and conditions as the director deems appropriate, with other state, federal, or interstate agencies, municipalities, educational institutions, or other organizations or individuals.

(2) Receive financial and technical assistance from the federal government, other public agencies, and private agencies.

(3) Participate in related programs of the federal government, other states, interstate agencies, other public agencies, or private agencies or organizations.

(4) Upon request, furnish reports, information, and materials relating to the certification program authorized by this chapter to federal, state, or interstate agencies, municipalities, educational institutions, and other organizations and individuals.

(5) Establish adequate fiscal controls and accounting procedures to assure proper disbursement of and accounting for funds appropriated or otherwise provided for the purpose of carrying out this chapter.

(6) Adopt rules under chapter 34.05 RCW.

**NEW SECTION. Sec. 73. UNLAWFUL ACTS.** After January 1, 1992, it is unlawful for any person, firm, corporation, municipal corporation, or other governmental subdivision or agency to operate a solid waste incineration or landfill facility unless the operators are duly certified by the director under this chapter or any lawful rule or order of the department. It is unlawful for any person to perform the duties of an operator without being duly certified under this chapter. The department shall adopt rules that allow the owner or operator of a landfill or solid waste incineration facility to request a variance from this requirement under emergency conditions. The department may impose such conditions as may be necessary to protect human health and the environment during the term of the variance.

**NEW SECTION. Sec. 74. PENALTIES.** Any person, including any firm, corporation, municipal corporation, or other governmental subdivision or agency, with the exception of incinerator operators, violating any provision of this chapter or the rules adopted under this chapter, is guilty of a misdemeanor. Incinerator operators who violate any provision of this chapter shall be guilty of a gross misdemeanor. Each day of operation in violation of this chapter or any rules adopted under this chapter shall constitute

a separate offense. The prosecuting attorney or the attorney general, as appropriate, shall secure injunctions of continuing violations of any provisions of this chapter or the rules adopted under this chapter.

**NEW SECTION.** Sec. 75. **DEPOSIT OF RECEIPTS.** All receipts realized in the administration of this chapter shall be paid into the general fund.

**NEW SECTION.** Sec. 76. Sections 65 through 75 of this act shall constitute a new chapter in Title 70 RCW.

**NEW SECTION.** Sec. 77. A new section is added to chapter 70.95 RCW to read as follows:

Incineration of medical waste shall be conducted under sufficient burning conditions to reduce all combustible material to a form such that no portion of the combustible material is visible in its uncombusted state.

## XI. REVENUE

Sec. 78. Section 6, chapter 282, Laws of 1986 and RCW 82.18.010 are each amended to read as follows:

For purposes of this chapter:

(1) "~~((Refuse))~~ Solid waste collection business" means every person who receives solid waste for transfer, storage, or disposal including but not limited to all collection services, public or private dumps, transfer stations, and similar operations.

(2) "Person" shall have the meaning given in RCW 82.04.030 or any later, superseding section.

(3) "Solid waste" means garbage, trash, rubbish, or other material discarded as worthless or not economically viable for further use. The term does not include hazardous or toxic waste nor does it include material collected primarily for recycling or salvage.

(4) "Taxpayer" means that person upon whom the ~~((refuse))~~ solid waste collection tax is imposed.

Sec. 79. Section 7, chapter 282, Laws of 1986 and RCW 82.18.020 are each amended to read as follows:

**SOLID WASTE COLLECTION TAX.** There is imposed on each person using the solid waste services of a ~~((refuse))~~ solid waste collection business a ~~((refuse))~~ solid waste collection tax equal to three and six-tenths percent of the consideration charged for the services.

**NEW SECTION.** Sec. 80. A new section is added to chapter 82.18 RCW to read as follows:

**SOLID WASTE COLLECTION TAX.** (1) There is imposed on each person using the services of a solid waste collection business a solid waste collection tax of one percent of the consideration charged for the services.

This tax shall be applied only to a service charge for actual solid waste collection services that are provided. For residential collection service only, the tax shall apply to the lesser of the consideration charged for the services or:

(a) For customers with less than two-can service, the first eight dollars of the monthly charge for the services.

(b) For customers with two-can service or more, the first twelve dollars of the monthly charge for the services.

(2) Money collected under this section shall be held in trust until paid to the state. Money received by the state shall be deposited in the solid waste management account created by section 90 of this act.

(3) This section expires July 1, 1993.

NEW SECTION. Sec. 81. The expiration of section 80 of this act shall not be construed as affecting any existing right acquired or liability or obligation incurred under that section or under any rule or order adopted under that section, nor as affecting any proceeding instituted under that section.

NEW SECTION. Sec. 82. Section 80 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989.

NEW SECTION. Sec. 83. The joint select committee on preferred solid waste management created pursuant to section 91 of this act shall report to the legislature by January 1, 1993, as to whether the tax imposed under section 80 of this act should be continued or modified to achieve the purposes of this act.

Sec. 84. Section 8, chapter 282, Laws of 1986 and RCW 82.18.030 are each amended to read as follows:

The person collecting the charges made for using the ~~((refuse))~~ solid waste collection business shall collect the tax imposed in ~~((section 6 of this act))~~ this chapter. If any person charged with collecting the tax fails to bill the taxpayer for the tax, or in the alternative has not notified the taxpayer in writing of the imposition of the tax, or having collected the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of the person's own acts or the result of acts or conditions beyond the person's control, he or she shall, nevertheless, be personally liable to the state for the amount of the tax.

Sec. 85. Section 9, chapter 282, Laws of 1986 and RCW 82.18.040 are each amended to read as follows:

Taxes collected under this chapter shall be held in trust until paid to the state. Except for taxes received under section 80 of this act, taxes so received by the state shall be deposited in the public works assistance account created in RCW 43.155.050. Any person collecting the tax who appropriates or converts the tax collected shall be guilty of a gross misdemeanor if



the money required to be collected is not available for payment on the date payment is due. If a taxpayer fails to pay the tax imposed by this chapter to the person charged with collection of the tax and the person charged with collection fails to pay the tax to the department, the department may, in its discretion, proceed directly against the taxpayer for collection of the tax.

The tax shall be due from the taxpayer within twenty-five days from the date the taxpayer is billed by the person collecting the tax.

The tax shall be due from the person collecting the tax at the end of the tax period in which the tax is received from the taxpayer. If the taxpayer remits only a portion of the total amount billed for taxes, consideration, and related charges, the amount remitted shall be applied first to payment of the ~~((refuse))~~ solid waste collection tax and this tax shall have priority over all other claims to the amount remitted.

Sec. 86. Section 10, chapter 282, Laws of 1986 and RCW 82.18.050 are each amended to read as follows:

The ~~((refuse))~~ solid waste collection ~~((tax))~~ taxes imposed in this chapter shall not apply to any agency, division, or branch of the federal government or to services rendered under a contract therewith.

Sec. 87. Section 11, chapter 282, Laws of 1986 and RCW 82.18.060 are each amended to read as follows:

To prevent pyramiding and multiple taxation of a single transaction, ~~((this tax))~~ the solid waste collection taxes imposed in this chapter shall not apply to any ~~((refuse))~~ solid waste collection business using the services of another ~~((refuse))~~ solid waste collection business for the transfer, storage, processing, or disposal of the waste collected during the transaction.

To be eligible for this exemption, a person first must be certified by the department of revenue as a ~~((refuse))~~ solid waste collection business.

Sec. 88. Section 12, chapter 282, Laws of 1986 and RCW 82.18.070 are each amended to read as follows:

Chapter 82.32 RCW applies to the ~~((tax))~~ taxes imposed under this chapter.

Sec. 89. Section 13, chapter 282, Laws of 1986 and RCW 82.18.080 are each amended to read as follows:

The department of revenue shall have the power to enforce the ~~((tax))~~ taxes imposed in this chapter through appropriate rules.

NEW SECTION. Sec. 90. A new section is added to chapter 70.95 RCW to read as follows:

**SOLID WASTE MANAGEMENT ACCOUNT.** The solid waste management account is created in the state treasury. Moneys in the account may only be spent after appropriation. Expenditures from the account may

only be used to carry out the purposes of this act. All earnings from the investment of balances in the solid waste management account except as provided in RCW 43.84.090, shall be deposited into the solid waste management account.

## XII.

### REAUTHORIZATION OF JOINT SELECT COMMITTEE

Sec. 91. Section 15, chapter 528, Laws of 1987 as amended by section 6, chapter 184, Laws of 1988 (uncodified) is amended to read as follows:

(1) ~~((The Washington state legislature finds that the state faces a solid waste disposal crisis. The siting of new landfills, the location and design of new solid waste incinerators, the disposal of ash residue, and compliance with the priorities of the solid waste management act and the hazardous waste management act require that an effort be made by the state to ensure that local governments and private industry have adequate technical information, and that programs are developed to accomplish the statutory waste management priorities:~~

~~(2) A comprehensive evaluation of preferred solid waste management programs shall be undertaken by))~~ The joint select committee for preferred solid waste management is created for the purpose of monitoring the implementation of this act and for making further recommendations for legislation to fulfill the purposes of this act. The committee shall consist of four members of the house of representatives appointed by the speaker of the house and four members of the senate appointed by the president of the senate. Equal membership of each major political caucus shall be provided. The president of the senate and the speaker of the house of representatives shall each designate a cochair of the committee. The committee shall involve the department of ecology, the utilities and transportation commission, and representatives of organizations representing cities, counties, the public, the waste management industry, the energy recovery and incineration industry waste haulers, and the private recycling industry. The committee shall report its findings and recommendations to the appropriate standing committees of the legislature ((by January 1, 1989)).

~~((3))~~ (2) The department of ecology may provide the committee with specific recommendations on waste management programs from studies the department has undertaken as required by RCW 70.95.263.

~~((4))~~ (3) The committee shall attempt to determine the reasons why higher rates of waste reduction and recycling have not been achieved in the state and develop recommendations on how to achieve higher rates.

~~((5))~~ (4) The committee's recommendations shall include (a) specific programs for waste reduction, recycling, incineration, and landfills, (b) specific goals for solid waste management, and (c) specific responsibilities for state government, local government, and the private sectors to accomplish the committee's recommendations. The committee shall also recommend

specific legislation and rule-making requirements to accomplish the committee's findings.

~~((6))~~ (5) The joint select committee for preferred solid waste management shall cease to exist on July 1, ~~((1989))~~ 1991.

### XIII.

#### WASTE TIRES

Sec. 92. Section 5, chapter 345, Laws of 1985 and RCW 70.95.510 are each amended to read as follows:

**NEW TIRE ASSESSMENT.** There is levied ~~((and there shall be collected by the department of revenue from every person engaging within this state in business making))~~ a one dollar per tire fee on the retail sale(s) of new replacement vehicle tires ~~((, an annual assessment equal to the gross proceeds of the sales of new replacement vehicle tires sold within this state, multiplied by twelve hundredths of one percent))~~ for a period of five years, beginning October 1, 1989. The fee imposed in this section shall be paid by the buyer to the seller, and each seller shall collect from the buyer the full amount of the fee. The fee collected from the buyer by the seller less the ten percent amount retained by the seller as provided in section 93 of this act shall be paid to the department of revenue in accordance with RCW 82.32-.045. All ~~((of the))~~ other applicable provisions of chapter 82.32 RCW have full force and application with respect to ~~((taxes))~~ the fee imposed under this section. The department of revenue shall administer this section.

For the purposes of this section, "new replacement vehicle tires" means tires that are newly manufactured for vehicle purposes and does not include retreaded vehicle tires.

**NEW SECTION.** Sec. 93. A new section is added to chapter 70.95 RCW to read as follows:

**WASTE TIRE CLEANUP.** (1) Every person engaged in making retail sales of new replacement vehicle tires in this state shall retain ten percent of the collected one dollar fee. The moneys retained may be used for costs associated with the proper management of the waste vehicle tires by the retailer.

(2) The department of ecology will administer the funds for the purposes specified in RCW 70.95.020(5) including, but not limited to:

(a) Making grants to local governments for pilot demonstration projects for on-site shredding and recycling of tires from unauthorized dump sites;

(b) Grants to local government for enforcement programs;

(c) Implementation of a public information and education program to include posters, signs, and informational materials to be distributed to retail tire sales and tire service outlets;

(d) Product marketing studies for recycled tires and alternatives to land disposal.

Sec. 94. Section 6, chapter 345, Laws of 1985 and RCW 70.95.520 are each amended to read as follows:

There is created an account within the state treasury to be known as the vehicle tire recycling account. All assessments and other funds collected or received under this chapter shall be deposited in the vehicle tire recycling account and used by the department of ecology for ((the)) administration and implementation of this chapter ((as provided by RCW 70.95.530)). After October 1, 1989, the department of revenue shall deduct two percent from funds collected pursuant to section 92 of this act for the purpose of administering and collecting the fee from new replacement vehicle tire retailers.

Sec. 95. Section 5, chapter 250, Laws of 1988 and RCW 70.95.560 are each amended to read as follows:

**PENALTIES.** Any person who transports or stores waste tires without a license in violation of RCW 70.95.555 shall be guilty of a gross misdemeanor and upon conviction shall be punished under RCW ~~((9A.20.020(2)))~~ 9A.20.021(2).

#### XIV. STUDIES AND GRANTS

NEW SECTION. Sec. 96. A new section is added to chapter 70.95 RCW to read as follows:

**SOLID WASTE ENFORCEMENT STUDY.** The institute for urban and local studies at Eastern Washington State University shall conduct a study of enforcement of solid waste management laws and regulations as a component of the 1990 state solid waste management plan. This study shall include, but shall not be limited to:

(1) A review of current state and local solid waste rules, requirements, policies, and resources devoted to state and local solid waste enforcement, and of the effectiveness of these programs in promoting environmental health and public safety;

(2) An examination of federal regulations and the latest proposed amendments to the Resource Conservation and Recovery Act, in subtitle D of the code of federal regulations;

(3) A review of regulatory approaches used by other states;

(4) A review and evaluation of educational and technical assistance programs related to enforcement;

(5) An inventory of regulatory compliance for all processing and disposal facilities handling mixed solid waste;

(6) A review of the role and effectiveness of other enforcement jurisdictions;

(7) An evaluation of the need for redefining institutional roles and responsibilities for enforcement of solid waste management laws and regulations in order to establish public confidence in solid waste management systems and ensure public protection; and

(8) An evaluation of possible benefits in separating the solid waste planning and technical assistance responsibilities from the enforcement responsibilities within the department.

NEW SECTION. Sec. 97. A new section is added to chapter 70.95 RCW to read as follows:

**COMPOSTING GRANTS AND STUDY.** (1) In order to establish the feasibility of composting food and yard wastes, the department shall provide funds, as available, to local governments submitting a proposal to compost such wastes.

(2) The department, in cooperation with the department of trade and economic development, may approve an application if the project can demonstrate the essential parameters for successful composting, including, but not limited to, cost-effectiveness, handling and safety requirements, and current and potential markets.

(3) The department shall periodically report to the appropriate standing committees of the legislature on the need for, and feasibility of, composting systems for food and yard wastes.

NEW SECTION. Sec. 98. **ENERGY RECOVERY STUDY.** In order to develop and enhance markets for scrap waste paper and to establish the safety and feasibility of burning certain plastics for energy recovery, the state energy office, in cooperation with the department of trade and economic development, shall conduct a study including, but not limited to, the following:

(1) A characterization of the facilities combusting scrap paper and plastics, including the design of handling equipment, combustors, and pollution control equipment;

(2) A determination of the quantity of scrap paper available for the fuel market, and the locations of potential suppliers;

(3) A determination of the capital and operating and maintenance costs of safely combusting scrap paper and plastic fuels;

(4) A determination of the market value of the fuel to potential users. The office shall report its finding to the legislature by December 31, 1989.

NEW SECTION. Sec. 99. **STUDY OF RECYCLED PAPER AS FEED STOCK.** The office of waste reduction shall conduct a study of the current use of, and potential capacity for, use of recycled paper as feed stock to the state's pulp and paper industry. The office shall report its findings to the legislature by December 31, 1989.

**NEW SECTION.** Sec. 100. COMMITTEE FOR RECYCLING MARKETS. (1) There is created, within the department of trade and economic development, the Washington committee for recycling markets. The committee shall be appointed by the director and shall involve representatives of: Recycling businesses; solid waste collection businesses; local government officials; local chambers of commerce; citizen recycling groups; manufacturers; institutions of higher education; the department of ecology; and other agencies, businesses, and individuals and organizations as may have an interest in development of recycling markets. The committee shall also include such legislative members as are appointed by the speaker of the house of representatives and the president of the senate.

(2) The committee shall convene on or before September 1, 1989, and shall meet no less than monthly.

(3) The committee shall be supported by staff from the department of trade and economic development with assistance of the department of ecology.

**NEW SECTION.** Sec. 101. RECOMMENDATIONS. The committee shall make recommendations for development of new markets for recycled materials, with particular attention to markets for yard waste, plastics, mixed waste papers and waste tires, and for increasing the effectiveness of the market development responsibilities of the department of trade and economic development under section 64 of this act.

**NEW SECTION.** Sec. 102. CONTRACTS AND REPORTS. The committee may enter into contracts to assist in its responsibilities, provided that the state funds for such contracts are matched by at least an equal amount from private sources. The committee shall provide a report to the legislature on or before January 2, 1990, and a final report on or before November 30, 1990, and its duties shall be terminated upon delivery of the final report.

**NEW SECTION.** Sec. 103. Sections 100 through 102 of this act shall constitute a new chapter in Title 43 RCW.

**NEW SECTION.** Sec. 104. PROBLEM WASTE STUDY. (1) The department shall share information on household hazardous waste pilot projects and strategies for management of moderate risk wastes with local governments as elements of a problem waste study. In doing so, the department shall prepare a report detailing progress in managing moderate risk wastes throughout the state.

The department of ecology shall conduct a study of the following problem wastes:

- (a) Moderate risk wastes generated by businesses and households;
- (b) Waste lubricating oil;
- (c) Petroleum contaminated soils;
- (d) Gypsum wastes from construction and demolition.

The study shall include an analysis and evaluation of the best available technologies for environmentally sound collection, storage, processing and/or disposal. Technologies shall be evaluated based on economic and environmental impacts. The priority shall be on the development of recommendations for achieving reduction and recycling of these wastes.

(2) In conducting the study, the department shall involve, consult, and create special advisory committees that will include membership from relevant industries, environmental groups, and local governments. The department shall submit a report, including recommendations, to the house of representatives environmental affairs committee and the senate environment and natural resources committee by December 15, 1990, and shall make the results of the study available to local governments. In its study, the department shall consider, at a minimum, the following:

(a) Education programs about using alternative products that minimize adverse effects to the environment;

(b) Program development and enhancement to divert problem wastes from the waste stream, including current recycling programs and household hazardous waste collection programs;

(c) Waste treatment and stabilization; and

(d) Environmental impacts.

(3) In addition, the department shall conduct a literature search to investigate existing toxic materials in landfills, in sewage sludge disposal, in incinerator air emissions, and in incinerator fly and bottom ash, including, but not limited to, lead, mercury, cadmium, chromium, dioxins, furans, oxides of sulphur, carbon, nitrogen, and other toxic organic materials. Furthermore, the study shall review the adequacy of the state's air quality and ash quality standards for solid waste incinerators, by including a comparison of Washington state standards with the latest standards adopted by other countries such as Sweden and West Germany.

(4) The purpose of the investigation and the standards review is to evaluate the potential for damage to the environment and public health from these toxic materials, to identify the sources of the toxic materials, and to evaluate the potential solid waste management practices for eliminating or reducing the amount of toxic materials entering disposal facilities, or reducing the toxicity of such materials.

***\*NEW SECTION. Sec. 105. REGIONAL FACILITY PLANNING. (1) The department of ecology shall award a maximum of three grants prior to June 30, 1991, to local governments for the purpose of planning for a regional facility or facilities with the capacity to manage solid waste in the region on an integrated waste management basis. The award may be made to any general jurisdictional unit of local government or more than one such unit acting cooperatively in planning for such a facility.***

***(2) In making the awards the department shall apply the following criteria:***

(a) *The applicant proposes a plan for a system or facility that will accept a majority of the volume of the solid waste from beyond the boundaries of the local governments applying for the grant;*

(b) *The proposed plan will address the need for shared responsibility for the operation and closure of the facility among the local governments using the facility, and an equitable distribution of the liability that may be incurred based upon the origin of the solid waste handled at the facility;*

(c) *The plan will identify the public participation process to be used in planning and developing the system or facility;*

(d) *The plan will identify regulatory, planning, and financial issues that should be addressed by the state government and make recommendations for legislative or administrative actions;*

(e) *The plan is consistent with any applicable state and local solid waste management plans and the purposes of this act; and*

(f) *The applicant proposes a plan that will incorporate existing energy recovery, incineration, and/or disposal facilities.*

(3) *Where the applications received otherwise meet the criteria of this section the department shall endeavor to make awards for plans that will address regional solid waste management needs in each of the major geographic regions of the state.*

(4) *Grant recipients shall provide periodic progress reports to the department.*

\*Sec. 105 was vetoed, see message at end of chapter.

**\*NEW SECTION.** Sec. 106. *A facility that achieves an integrated waste management strategy relying upon several of the management priorities specified in RCW 70.95.010, and that receives a substantial volume of waste from an entire region of the state, shall be provided flexibility in the pursuit of such integrated waste management by the local government or governments preparing a comprehensive solid waste management plan for the area in which the facility is located.*

\*Sec. 106 was vetoed, see message at end of chapter.

## XV.

### SEVERABILITY AND EMERGENCY CLAUSES

**NEW SECTION.** Sec. 107. *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. 108. *Captions and headings used in this act do not constitute any part of the law.*

**NEW SECTION.** Sec. 109. *Sections 49 and 50 of this act are necessary for the immediate preservation of the public peace, health, or safety, or*



support of the state government and its existing public institutions, and shall take effect July 1, 1989.

Passed the House April 18, 1989.

Passed the Senate April 13, 1989.

Approved by the Governor May 15, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 15, 1989.

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

"I am returning herewith, without my approval as to sections 7, 14, 44, 105, and 106, Engrossed Substitute House Bill No. 1671 entitled:

"AN ACT Relating to solid waste."

This is landmark legislation. It is a major step forward in solid waste management and is entirely consistent with my explicitly stated goal that this state do far more in the area of waste reduction and recycling.

This bill makes significant changes in the way this state manages solid waste. Specifically, the thrust of this bill is to move solid waste management toward waste reduction and recycling in order to provide greater environmental protection and to minimize costly cleanup of environmental problems. Over the last two years, the Joint Select Committee for Preferred Solid Waste Management has examined this issue thoroughly and this legislation is the result of effort. The bill puts into place mechanisms to ensure that waste reduction and recycling is treated as a priority and implemented in order to minimize reliance on incineration and landfills. It establishes as a fundamental strategy the segregation of waste at its source in order to clean out of the waste stream those materials that have resource value, and to segregate those wastes which pose particular environmental hazards for proper management.

However, I have found it necessary to veto a number of sections of this bill. Section 7 removes a requirement in current statute that any city preparing an independent solid waste management plan must provide for disposal sites wholly within its jurisdiction. There has been a very long debate, involving many complex issues, over the proper county-city roles in the area of solid waste management. I am concerned that section 7 is inconsistent with the intent expressed in section 1 which is to encourage regional solutions.

Section 14 amends RCW 35.21.120 and makes technical changes clarifying city authority over solid waste handling. However, the same technical changes to RCW 35.21.120 were also made in section 1 of Substitute House Bill No. 1568. To avoid confusion, I am vetoing section 14.

Section 44 exempts business establishments from paying the B&O tax on the value of core deposits or credits on returnable products such as batteries, starters, brakes and other products. These deposits constitute gross proceeds and, in Washington, gross proceeds are taxed. Further, the reference to "other products with returnable value" is unqualified and potentially opens up a broad category of unknown products which are exempt from the B&O tax. I do not believe the incentive to recycle most of the currently discussed items will be impacted by the taxable status of the returnable value. For these reasons I am vetoing section 44.

Section 105 states that the Department of Ecology may give grants to local governments for regional facilities to manage wastes on an integrated waste management basis. This section duplicates the direction provided in section 1 that regional solutions be encouraged. Section 105 also directs the Department to give grants for integrated waste facilities; however, the Department already has this authority under current law. Finally, this section directs the Department to spend public funds on landfills and incineration facilities — clearly designated in Engrossed Substitute House Bill 1671 as lower waste management priorities — which possibly might come at the expense of the higher waste management priorities. By vetoing this section, I do not intend to compromise movement toward regional cooperation and facilities;

clearly, section 1(7) of Engrossed Substitute House Bill No. 1671 states that regional solutions and intergovernmental cooperation are required if we are to solve this state's solid waste management problems.

Section 106 states that a facility that achieves an integrated waste management strategy, and which receives a substantial volume of waste from a region, shall be provided flexibility by local government preparing a solid waste management plan. The thrust of this amendment is inconsistent with the objectives of Engrossed Substitute House Bill No. 1671. First, there are not several waste management priorities. There is a priority among them, and clearly the bill, as well as current statute, states that waste reduction and recycling are of the highest order. Second, the reference, "provided flexibility," suggests that a facility has some added leeway to depart from the reduction and recycling element which Engrossed Substitute House Bill No. 1671 requires to be adopted as part of each local government's solid waste management plan. The apparent inconsistency of this section with the overall intent of Engrossed Substitute House Bill No. 1671, and the ambiguity and the public policy implications warrant a veto of section 106.

With the exception of sections 7, 14, 44, 105, and 106, I am pleased to sign Engrossed Substitute House Bill No. 1671."