

JOHN SPELLMAN  
Governor



NICHOLAS D. LEWIS  
Chairman

STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

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May 31, 1983

WM Record File 101.3

WM Project 10  
Docket No. \_\_\_\_\_

PDR  \_\_\_\_\_  
LPDR  \_\_\_\_\_

Distribution: REB EH  
JDB CR  
HM WKeir  
(Return to WM, 623-SS) \_\_\_\_\_

CZ

Mr. Joseph O. Bunting, Chief  
Licensing Process and Integration Branch  
U. S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Mr. Bunting:

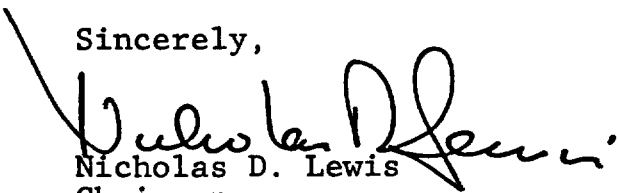
Thank you for your recent letter regarding the commission's response to Federal Register Notice (48FR9332) concerning issues to be included in an environmental assessment supporting the nomination of the BWIP site as a potentially acceptable repository.

The responsibility for the state of Washington's participation in the federal high-level waste repository program has been transferred from the Governor's Task Force to the Washington State Department of Ecology. I have enclosed this legislation for your review and I also forwarded an earlier copy to Kathy Russell, of your branch, at her request. As you will note a number of the people with whom you have dealt are still involved in an advisory capacity to the Department of Ecology.

Appropriate contacts for you at the Department of Ecology would be the Director, Donald Moos ((206)459-6168) and his special assistant, Mr. Donald Provost ((206)459-6023). Mr. Moos and Mr. Provost both participated actively on the Governor's Task Force and, therefore, are current as to our previous discussions.

If I can be of further assistance please feel free to contact me.

Sincerely,

  
Nicholas D. Lewis  
Chairman

NDL:BGE:lm

Enclosure

cc: Steve Excell  
David Stevens  
Donald Moos

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WM-10 PDR

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7 No. 1193

ENGROSSED SUBSTITUTE  
SENATE BILL NO. 3273

BY

Committee on Energy and Utilities  
(Originally sponsored by  
~~Senators Williams, Hurley,~~  
Bauer and Talmadge)  
BRIEF TITLE

Establishing the Washington  
radioactive waste commission.

3/30/83 Read third time and

PASSED Yeas 25, Nays 22  
3/30/83 Title Agreed to  
3/30/83 Sent to House

s/s SID SNYDER  
Secretary of the Senate.

SENATE RECORD

Filed by Committee and ordered printed  
3/15/83  
3/30/83 On motion Substi-  
tuted for Original Bill, placed on calendar

3/30/83 Read second time and

AMENDED  
ORDERED ENGROSSED  
Advanced to Third Reading  
Under Suspension of Rules

HOUSE RECORD

Received from Senate  
Read first time and referred to Committee  
on ENERGY & UTILITIES  
4-13-83 Reported back by  
Committee with the recommendation  
MAJORITY do pass  
MAJORITY do pass as amended (11)  
MINORITY do not pass  
That Substitute Senate Bill  
be substituted therefor and that Substitute  
Bill Do Pass  
Passed to second reading.  
4-13-83

4-21-83 Read second time and  
amended.

4-21-83 Read third time and  
Held

Yeas, Nays  
Title Agreed to  
Returned to Senate

Chief Clerk.

Received from the H  
Enrolled  
Signed, President of the Se  
Signed, Speaker of the H  
Signed by the Gover

SENATE RECORD

4-24-83 Returned to Se  
and placed in Committee on Rules  
on third reading

Reported back  
Committee with the recommendation  
MAJORITY do pass  
MAJORITY do pass as amended  
MINORITY do not pass  
That Substitute Senate Bill  
be substituted therefor and that Substi  
Bill Do Pass

Passed to second reading.  
MAY 3 1983 Read third time  
MAY 3 1983 Returned to second reading  
for amendment

MAY 3 1983 AMENDED  
ORDERED ENGROSSED  
Advanced to Third Reading  
Under S nsi of Rules  
MAY 3 1983 Read third time

Passed 47 Yeas, Nays  
MAY 3 1983 Title Agree  
MAY 3 1983 Sent to H

IN THE LEGISLATURE  
of the  
**STATE OF WASHINGTON**



**CERTIFICATION OF ENROLLED ENACTMENT**

SUBSTITUTE SENATE BILL NO. 3273

CHAPTER NO. \_\_\_\_\_

Passed the Senate May 3, 19 83

Yeas 47 Nays 0

Passed the House May 6, 19 83  
as amended

Yeas 91 Nays 4

The Senate concurred in the  
House amendments and passed  
the bill as amended-5/6/83.

Yeas 43 Nays 2

**CERTIFICATE**

*I, Sidney R. Snyder, Secretary of the Senate of the  
State of Washington do hereby certify that the attached  
is enrolled Substitute Senate Bill No. 3273 as  
passed by the Senate and the House of Representatives  
on the dates hereon set forth.*

\_\_\_\_\_  
*Secretary of the Senate*

REENGROSSED SUBSTITUE SENATE BILL NO 3273  
AS AMENDED BY THE HOUSE

State of Washington                      48th Legislature                      1983 Regular Session  
by Committee on Energy and Utilities (Originally sponsored by  
Senators Williams, Hurley, Bauer and Talmadge)

Filed by Committee March 15, 1983, and ordered printed.

1            AN ACT Relating to radioactive waste; amending section 3, chapter  
2 207, Laws of 1961 as last amended by section 125, chapter 141, Laws  
3 of 1979 and RCW 70.98.030; adding a new chapter to Title 43 RCW;  
4 creating new sections; repealing section 12, chapter 295, Laws of  
5 1981 and RCW 43.21F.075; and declaring an emergency.

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

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

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

26            The department shall submit a written report at least  
27 semiannually to the governor and to each member of the legislature on  
28 the radioactive waste program, its progress in carrying out its

Sec. 2

1 responsibilities, and any recommendations for legislative or  
2 administrative action that will improve the state's management and  
3 control activity in maximizing public health and safety.

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

7 NEW SECTION. Sec. 4. There is hereby created a nuclear waste  
8 policy and review board to assist the department in carrying out its  
9 responsibilities under this chapter. The board shall consist of the  
10 following members: The chairman of the advisory council who shall  
11 also serve as chairman of the review board, the director of the  
12 department or the director's designee, the director of the energy  
13 office or the director's designee, the commissioner of public lands  
14 or the commissioner's designee, the secretary of social and health  
15 services or the secretary's designee, the chairman of the energy  
16 facility site evaluation council or the chairman's designee, four  
17 members of the state senate, appointed by the president of the  
18 senate, and four members of the house of representatives, appointed  
19 by the speaker, who shall be selected from each of the caucuses in  
20 each house, but no more than two members of each house shall be of  
21 the same political party. Legislative members shall be ex officio  
22 nonvoting members of the board and shall serve while members of the  
23 legislature, at the pleasure of the appointing officer. The board  
24 shall be responsible for identifying and reviewing state agency  
25 policies relating to the management of radioactive wastes; analyzing  
26 recommendations of the advisory council to determine how state  
27 agencies may be responsive to the needs of the department in carrying  
28 out its duties under this chapter; assisting the department in  
29 determining ways in which coordination among state agencies can be  
30 improved; carrying out such review activities that will enable the  
31 governor to effectively evaluate federal actions; reviewing the  
32 activities of advisory and technical committees created by the  
33 governor; advising the director on the need for additional advisory  
34 and technical committees; and assisting the department to participate  
35 in the consultation and concurrence process provided for in the

1 federal waste management act of 1982 and the low-level waste policy  
2 act of 1980 and to monitor and comment on decisions of the northwest  
3 interstate compact committee on low-level radioactive waste  
4 management.

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

13 NEW SECTION. Sec. 5. (1) An advisory council is hereby  
14 established of not less than fifteen members appointed by the  
15 governor to provide advice, counsel, and recommendations to the  
16 department on all aspects of the radioactive waste management  
17 program. The council shall particularly advise the department on  
18 maximizing opportunities for public involvement in the program,  
19 soliciting public input, and assisting in the need for wide  
20 understanding of the issues involved in nuclear waste management.  
21 The governor shall appoint the chairman of the advisory council who  
22 shall also serve as chairman of the waste policy and review board.  
23 Members of the council shall be selected from all areas of the state  
24 and shall include a broad range of citizens, representatives of local  
25 governments, and representatives of such other interests as the  
26 governor determines will best further the purposes of this chapter.  
27 A representative of an affected Indian tribe may be an ex officio  
28 nonvoting member of the council. Terms of council members shall not  
29 exceed two years and they shall continue to serve until their  
30 successors are appointed. Vacancies shall be filled in the same  
31 manner as original appointments. Members may be reappointed.  
32 Members shall receive reimbursement for travel expenses incurred in  
33 the performance of their duties in accordance with RCW 43.03.050 and  
34 43.03.060.

35 NEW SECTION. Sec. 6. The department may establish such

1 additional advisory and technical committees as it deems necessary.

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

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

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

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

1 its administration shall be reported biennially to the legislature by  
 2 the director. Moneys in the perpetual maintenance account shall be  
 3 invested by the state investment board in the same manner as other  
 4 state moneys. Any interest accruing as a result of investment shall  
 5 accrue to the perpetual maintenance account. Additional moneys  
 6 specifically appropriated by the legislature or received from any  
 7 public or private source may be placed in the perpetual maintenance  
 8 account. The perpetual maintenance account shall be used exclusively  
 9 for surveillance and maintenance costs, or for otherwise satisfying  
 10 surveillance and maintenance obligations; and

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

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

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

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

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

33 (b) "Specific license" means a license, issued after application  
 34 to use, manufacture, produce, transfer, receive, acquire, own, or  
 35 possess quantities of, or devices or equipment utilizing byproduct,  
 36 source, special nuclear materials, or other radioactive materials



1 occurring naturally or produced artificially.

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

10 (5) ("Source material" means (a) uranium, thorium, or any other  
11 material which the governor declares by order to be source material  
12 after the United States Atomic Energy Commission, or any successor  
13 thereto, has determined the material to be such, or (b) ores  
14 containing one or more of the foregoing materials, in such  
15 concentration as the governor declares by order to be source material  
16 after the United States Atomic Energy Commission, or any successor  
17 thereto, has determined the material in such concentration to be  
18 source material)) "Source material" means (a) uranium, thorium, or  
19 any other material which is determined by the United States Nuclear  
20 Regulatory Commission or its successor pursuant to the provisions of  
21 section 61 of the United States Atomic Energy Act of 1954, as amended  
22 (42 U.S.C. Sec. 209) to be source material; or (b) ores containing  
23 one or more of the foregoing materials, in such concentration as the  
24 commission may by regulation determine from time to time.

25 (6) ("Special nuclear material" means (a) plutonium, uranium  
26 233, uranium enriched in the isotope 233 or in the isotope 235, and  
27 any other material which the governor declares by order to be special  
28 nuclear material after the United States Atomic Energy Commission, or  
29 any successor thereto, has determined the material to be such, but  
30 does not include source material or (b) any material artificially  
31 enriched by any of the foregoing, but does not include source  
32 material)) "Special nuclear material" means (a) plutonium, uranium  
33 enriched in the isotope 233 or in the isotope 235, and any other  
34 material which the United States Nuclear Regulatory Commission or its  
35 successor, pursuant to the provisions of section 51 of the United  
36 States Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2071),

1 determines to be special nuclear material, but does not include  
2 source materials or (b) any material artificially enriched by any of  
3 the foregoing, but does not include source material.

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

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

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

15 NEW SECTION. Sec. 11. If any part of this act shall be found to  
16 be in conflict with federal requirements which are a prescribed  
17 condition to the allocation of federal funds to the state, such  
18 conflicting part of this act is hereby declared to be inoperative  
19 solely to the extent of such conflict and with respect to the  
20 agencies directly affected, and such finding or determination shall  
21 not affect the operation of the remainder of this act in its  
22 application to the agencies concerned. The rules and regulations  
23 under this act shall meet federal requirements which are a necessary  
24 condition to the receipt of federal funds by the state.

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

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

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

34 (1) All powers, duties, and functions authorized to be performed

Sec. 14

1 by the department of social and health services and its secretary by  
2 chapter 70.121 RCW;

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

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

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

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

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

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

Passed the Senate May 6, 1983.

President of the Senate.

Passed the House May 6, 1983.

Speaker of the House.