



1995 SENATE BILL 165

May 3, 1995 - Introduced by Senators LEEAN, ELLIS and RUDE, by request of Governor Tommy G. Thompson. Referred to Committee on Environment and Energy.

1 **AN ACT to repeal** 159.12; and **to amend** 159.07 (7) (a) and 159.11 (1) of the
2 statutes; **relating to:** approval of out-of-state effective landfill siting
3 programs.

Analysis by the Legislative Reference Bureau

Current law prohibits the disposal or incineration of listed recyclable materials. The prohibition does not apply to any out-of-state local governmental unit (foreign municipality) that both has an approved recycling program and is located within a state that has an approved landfill siting program. The prohibition does not apply to any municipality located within this state that has an approved recycling program. The department of natural resources (DNR), upon request of a municipality, evaluates the municipality's recycling program or state landfill siting program and, where stated criteria are satisfied, issues the necessary approval. Under current law, DNR may approve a foreign municipality's recycling program only by formal rule-making procedures, including a public hearing.

A federal district court held that the additional procedural requirements imposed on foreign municipalities, beyond those requirements placed on municipalities located within this state, discriminated against out-of-state interests in violation of the commerce clause of the U.S. Constitution. *National Solid Wastes Management Assoc. v. George Meyer*, No. 94-C-0603-S (W.D. Wis. Dec. 15, 1994), *petition for cert. filed*.

Under this bill, a foreign municipality is not required to obtain DNR approval of its home state landfill siting program before disposing of or incinerating listed recyclable materials in this state. Under the bill, DNR is not required to undertake formal rule-making procedures to determine that a foreign municipality has an effective recycling program.

