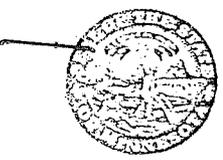


STATE OF MINNESOTA  
OFFICE OF THE GOVERNOR



ALBERT H. QUIE  
GOVERNOR

ST. PAUL 55155

March 19, 1982

The Honorable Harry Sieben  
Speaker  
Minnesota House of Representatives

Dear Mr. Speaker:

I am returning to you unsigned, H.F. 1176, the Environmental Response and Liability Act. While I have been a strong supporter of responsible legislation to address the problems which our State faces as result of the proliferation of hazardous waste, I do not believe that H.F. 1176 meets society's standards of reasonableness or fundamental fairness in the solutions it imposes on the people, businesses and governments of our State.

My greatest concern about H.F. 1176 is the structure of legal standards it establishes for determining liability. The doctrine of strict liability, which imposes legal liability without regard to whether an action was performed negligently or responsibly, is a standard which the State has a right to impose for future actions of hazardous waste generators, transporters and disposers. But to impose this strict liability on persons or corporations which acted reasonably and in accordance with the laws and scientific knowledge which existed many years ago violates both the spirit and the letter of the prohibition in the United States Constitution against a state passing any ex post facto law. I believe that this retroactive application of the doctrine of strict liability must be eliminated and that the actions of persons involved in hazardous waste disposal in the past should be judged against the standards of negligence established in our common law.

Of additional concern to me is the question of whether persons involved in the generation and disposal of hazardous wastes would have the opportunity to adequately insure against the tremendous potential liabilities imposed by H.F. 1176. I have consulted with representatives of the insurance industry, as well as the commissioner of insurance. Based on these discussions, I have concluded that the unique standards of liabilities imposed by the bill, together with the uncertainty of the extent of potential damages, will result in unreasonably high insurance costs. In addition, the stability of the insurance marketplace over time causes some concern for the future costs we may be imposing on the State's businesses. Further, since the new standards of liability are effective on July 1, 1982, the opportunity for businesses to intelligently define their insurance needs and secure the most cost effective coverage will be very limited. This additional significant cost of doing business in Minnesota, coupled with our high workers' compensation and corporate and personal income tax rates, would jeopardize the future health of our State's economy.



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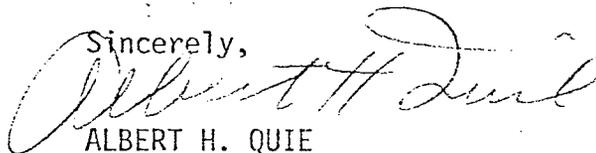
If H.F. 1176 were allowed to become law in its present form, I believe that it would further damage Minnesota's already troubled economy and would provide yet another disincentive for businesses to remain and grow in Minnesota, creating the vital jobs to which our citizens are entitled. This bill puts Minnesota at an even greater disadvantage than they already face from competitors in surrounding states.

There is a clear and demonstrable need for legislation which provides adequate funding to clean up hazardous waste sites in Minnesota when the persons responsible are either unavailable, unwilling or financially unable to do so. Further, there is no question that hazardous waste generators, transporters and disposers must be held responsible for damage they cause by lack of care or negligence.

Legislation is required to meet four needs: 1) State matching funds of at least 10 percent must be raised in order for Minnesota to receive federal cleanup money; 2) authority must be provided to the Pollution Control Agency (PCA) so that it can clean up hazardous waste situations before litigation is completed; 3) there must be fairness, equity and justice in liability standards for disposal practices that previously were considered legal and responsible; and 4) there must be fair, equitable and just liability standards established so that the Waste Management Board (WMB) can complete its siting responsibilities. Such standards must clearly establish the fact that all citizens of Minnesota will be adequately protected.

If the Legislature is willing, I believe that the defects in this legislation can be remedied. The Legislature can act quickly to address my concerns about the retroactive application of this law and about establishing more reasonable limitations on future liability during the present legislative session. If the Legislature is unable or unwilling to immediately revise the offensive provisions of this bill, the State will benefit from the results of the Federal Superfund Study Panel which is presently studying the liability provisions of such statutes and is expected to issue its report later this year. Problems of hazardous waste disposal in Minnesota must be addressed, and I will work with the Legislature to develop a fair, balanced and reasonable law to provide the necessary hazardous waste protection for every Minnesotan.

Sincerely,



ALBERT H. QUIE  
GOVERNOR