

Washington state debates intention of Initiative 297

BY REBECCA COOK
THE ASSOCIATED PRESS

OLYMPIA, Wash. — Did voters mean to expand the state's power to regulate radioactive waste when they overwhelmingly passed Initiative 297 last year?

The state Supreme Court heard arguments on that question Thursday.

Initiative supporters say no: The Hanford cleanup measure simply tells the state to use its existing authority to block any more waste from coming to the nuclear reservation until what's there is cleaned up.

Opponents say yes: The initiative dramatically expands the state's authority to block nuclear shipments, extending even to rags used to wipe machinery at a nuclear facility.

At stake is the cleanup of the Hanford nuclear reservation in south-central Washington, the most contaminated nuclear site in the country.

"The voters' intent was not to grab new spheres of material to regulate," said Assistant Attorney General Andy Fitz, representing the state, which is defending the initiative.

Attorney Michael Robinson-Dorn, representing I-297 sponsors, said if the justices have any doubt they should read the 2004 voters' pamphlet and other campaign materials.

"In not a single one of them does it say the scope of the government will be expanded," he said.

In fact, I-297 supporters noted, one of the main arguments against their initiative was that it wouldn't give the state new authority to regulate waste.

I-297 opponents say the sponsors are trying to kill part of the initiative to save it from legal death. Supporters say the opponents are trying to expand the definitions in the initiative to make sure it will die in federal court.

The federal government and Hanford contractors, which oppose the initiative, say I-297 did expand the

state's authority in a way that conflicts with federal law and thus should be struck down.

"The definition of mixed waste is much broader" under I-297 than under existing law, said U.S. Department of Justice attorney Kenneth Amaditz. "The state's reading, in fact, conflicts with the plain language of the statute."

The state is trying to limit the initiative to save it, argued Jim Spaanstra, an attorney representing Fluor Hanford, the main cleanup contractor.

"They are asking you to validate a bait-and-switch on the voters of Washington," Spaanstra said. "In an attempt to save this statute, in effect they're killing the main purpose of this statute."

"The job of this court is to give effect to the plain language of this statute."

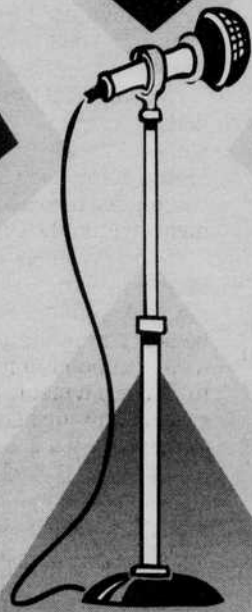
The court isn't deciding whether I-297 is constitutional, at least not yet. The federal government sued to overturn the initiative, arguing that it violates federal laws governing nuclear waste and interstate commerce. The initiative has not been enforced pending resolution of the lawsuit.

U.S. District Judge Alan McDonald in Yakima earlier granted a motion to allow the state Supreme Court to decide how the measure should be interpreted. After the state Supreme Court rules on nine questions posed by McDonald, the case will go back to his court.

Several dozen I-297 supporters attended the hearing.

"We've been clear from day one of the campaign that this initiative did not expand the state's authority," said Gerald Pollet, executive director of Hanford watchdog group Heart of America Northwest, which sponsored the initiative. "The United States and the federal contractors are saying 'regulate us, so we can call it onerous.'"

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