

SENATE BILL NO. 234

INTRODUCED BY J. SONJU, VANCE, HALE, STEINBEISSER, GALLUS, KEANE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CONDITIONS UNDER WHICH A MUNICIPALITY MAY PROVIDE GARBAGE AND SOLID WASTE SERVICES WHEN A PRIVATE MOTOR CARRIER IS PROVIDING THE SAME OR SIMILAR SERVICE; AMENDING SECTIONS 7-2-4736 AND 7-13-4107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-2-4736, MCA, is amended to read:

"7-2-4736. Preservation of existing garbage or solid waste service in the event of annexation. (†)

(1) A municipality that annexes or incorporates additional area receiving garbage and solid waste disposal service by from a motor carrier authorized by the public service commission to conduct such provide that service may not provide exclusive competitive or similar garbage and solid waste disposal service to any person or business located in the annexed or incorporated area until the municipality first fully compensates the private motor carrier for the resulting damage to its business, including but not limited to the diminished fair market value of the business and diminished value of the Class D certificate issued by the public service commission under 69-12-314, for 5 years following annexation except:

(a) upon a proper showing to the public service commission that the existing carrier is unable or refuses to provide adequate service to the annexed or incorporated area; or

(b) after the expiration of 5 years, if a majority of the residents of the annexed or incorporated area sign a petition requesting the municipality to provide the service.

(2) If a proper showing is made that the existing carrier is unable or refuses to provide adequate service to the annexed or incorporated area or, after the expiration of 5 years, if a majority of the residents sign a petition requesting service from the municipality, the municipality may provide garbage and solid waste disposal service to the entire annexed or incorporated area.

(3) For the purposes of determining whether an existing motor carrier provides adequate service, those services provided by the carrier prior to annexation are considered adequate services. FOR 5 YEARS FOLLOWING ANNEXATION OR INCORPORATION EXCEPT UPON A PROPER SHOWING TO THE PUBLIC SERVICE COMMISSION THAT THE



1 EXISTING CARRIER IS UNABLE TO OR REFUSES TO PROVIDE ADEQUATE SERVICE TO THE ANNEXED OR INCORPORATED AREA.

2 (2) IN ORDER TO PROVIDE GARBAGE AND SOLID WASTE DISPOSAL SERVICE TO THE ANNEXED OR INCORPORATED
 3 AREA, THE MUNICIPALITY SHALL FIRST FULLY COMPENSATE THE PRIVATE MOTOR CARRIER FOR THE RESULTING DAMAGE
 4 TO ITS BUSINESS, INCLUDING BUT NOT LIMITED TO THE DIMINISHED FAIR MARKET VALUE OF THE BUSINESS AND DIMINISHED
 5 VALUE OF THE CLASS D CERTIFICATE ISSUED BY THE PUBLIC SERVICE COMMISSION UNDER 69-12-314.

6 (3) FOR THE PURPOSES OF DETERMINING WHETHER AN EXISTING MOTOR CARRIER PROVIDES ADEQUATE SERVICE,
 7 THOSE SERVICES PROVIDED BY THE CARRIER PRIOR TO ANNEXATION ARE CONSIDERED ADEQUATE SERVICES."

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9 **Section 2.** Section 7-13-4107, MCA, is amended to read:

10 **"7-13-4107. Protection of private waste disposal service in municipality.** A municipality, as of
 11 January 1, 1979, that receives garbage and solid waste disposal services from a private motor carrier authorized
 12 by the public service commission to provide that service may not, by ordinance or otherwise, ~~elect to provide~~
 13 exclusive garbage and solid waste service ~~unless until~~ the municipality pays first fully compensates the private
 14 motor carrier for the resulting damage to its business, including but not limited to the diminished fair market value
 15 of the business and diminished value of the Class D certificate issued by the public service commission under
 16 69-12-314, fair market value for the carrier's equipment or unless the municipality delays commencing the public
 17 service for a period of 5 years from the date of the decision by the municipality to provide the garbage and solid
 18 waste services. The private motor carrier must be given notice of the decision by the municipality to provide
 19 exclusive garbage and solid waste services no later than 10 days after the decision has been made by the
 20 municipality."

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22 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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