

HOUSE BILL REPORT

SSB 5670

As Passed House

April 10, 1997

Title: An act relating to state-issued solid waste collection certificates in cities and towns.

Brief Description: Regulating solid waste collection certificates in effect within cities and towns.

Sponsors: Senate Committee on Government Operations (originally sponsored by Senators McCaslin, Haugen and Roach; by request of Utilities & Transportation Commission).

Brief History:

Committee Activity:

Government Administration: 4/1/97, 4/4/97 [DP].

Floor Activity:

Passed House: 4/10/1997, 98-0.5670

HOUSE COMMITTEE ON GOVERNMENT ADMINISTRATION

Majority Report: Do pass. Signed by 13 members: Representatives D. Schmidt, Chairman; D. Sommers, Vice Chairman; Scott, Ranking Minority Member; Gardner, Assistant Ranking Minority Member; Doumit; Dunn; Dunshee; Murray; Reams; Smith; L. Thomas; Wensman and Wolfe.

Staff: Bill Lynch (786-7092).

Background: A person who operates a solid waste collection company in the state must have a certificate of convenience and necessity from the Utilities and Transportation Commission (UTC) if the company is operated in an unincorporated area, or a contract with a city or town. A city or town may also handle its own solid waste collection.

If a city or town annexes property, or a new city or town incorporates, the franchise or permit authorizing the operation of garbage disposal in the area that was annexed or incorporated is canceled. The person who holds the franchise or permit which is canceled must be granted a franchise by the city or town to continue to do business within the area that was annexed or incorporated. The term of the franchise or permit

must be for a term of not less than the remaining term of the original franchise, or for five years, whichever is shorter.

The city or town is prohibited from extending similar or competing services to the area that was incorporated or annexed unless there is a showing of the inability or refusal of the franchise or permit holder to adequately provide service to the area at a reasonable price.

The city or town may purchase the franchise, business, or facilities at an agreed-upon price, or may acquire it by condemnation. A reasonable amount for the loss of the franchise or permit must be included in the price or award. If the person who held the franchise or permit suffers any measurable damages as a result of the incorporation or annexation, the person may file an action against the city or town for damages.

Recent incorporations and annexations by cities and towns have created confusion over who is supposed to regulate the area subject to the garbage disposal franchise after an incorporation or annexation occurs, when does the five-year transition period begin to run, and what happens when a city or town changes its mind about providing its own collection service. Some concerns have also been expressed about the adequacy of the five-year transition period.

Summary of Bill: After a city or town incorporates or annexes territory that is included in a franchise or permit issued by the UTC for garbage disposal, the UTC is required to continue to regulate the solid waste collection in the area annexed or incorporated until the city or town notifies the UTC in writing that it will contract for solid waste collection or undertake the collection itself.

If the city or town decides to contract for solid waste collection or undertake the collection itself, the city or town must grant the holder of the franchise or permit that is canceled a new franchise to continue the business within the area incorporated or annexed. The term of the new franchise must be for a term not less than the remaining term of the original franchise or permit, or not less than seven years, whichever is shorter.

The transition period begins to run upon the effective date specified by the city or town's ordinance or resolution to have the city or town contract for solid waste collection or undertake the collection itself.

A city, town, or combined city-county may reverse its decision to provide its own solid waste collection service at any time. If this occurs, the UTC is required to issue a certificate to the last holder of a valid UTC certificate of public convenience and necessity for the area that will again be regulated by the UTC. If no certificate

existed for the area, or the previous holder was compensated for the certificate property right, the UTC will consider applications to provide service to the area.

Cities and towns are still prohibited from extending similar or competing services to the area incorporated or annexed unless there is a showing of the inability or refusal of the franchise holder to adequately serve the area. Cities and towns may still acquire the franchise, business, and facilities at an agreed-upon price or by condemnation. A franchise or permit holder may still bring an action against the city or town for any measurable damages as a result of the franchise or permit being canceled.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill clears up many uncertainties in existing law. The bill protects the interests of consumers and the solid waste collection industry. It is virtually identical to the House bill.

Testimony Against: None.

Testified: Jim Boldt, Rabanco; Steve McLellan, Washington Utilities and Transportation Commission; and Scott Nelson, BFI.