

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST SPECIAL SESSION-1997

Legislative Document

No. 1705

H.P. 1205

House of Representatives, April 1, 1997

An Act Regarding Just Compensation for Private Waste Companies.

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative KERR of Old Orchard Beach.
Cosponsored by Representative DEXTER of Kingfield.

Be it enacted by the People of the State of Maine as follows:

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Sec. 1. 38 MRSA §1305-B is enacted to read:

§1305-B. Competition in solid waste collection services

1. Competition; procedures. Notwithstanding any other provision of law, providing solid waste services by a private person within the limits of any municipality, city or county may not be prohibited if those services also are provided by a governmental body within the limits of that governmental unit. The governmental body may not compel industrial or commercial establishments or multifamily residences of 8 or more units to use or pay user charges for solid waste services provided by the governmental body in preference to those services provided by a private person.

2. Displacement; procedures. A municipality, city or county or any public benefit corporation or public authority may not displace an existing business that provides services consisting of the collection or disposal of residential, commercial or industrial solid waste, except in accordance with this subsection.

A. A municipality, city or county or a public benefit corporation or public authority that seeks to displace a solid waste collection or disposal business shall hold a public hearing and shall publish notice of its intent in a newspaper of general circulation at least 60 days prior to the conduct of that public hearing. Notice of that public hearing must be provided by first class mail to all businesses that provide the solid waste collection or disposal service within the jurisdiction of the municipality, city, county or service area of the public benefit corporation or public authority within 45 days of that public hearing.

B. A municipality, city or county or a public benefit corporation or public authority that elects to displace a business providing solid waste collection and disposal services shall provide a written notice of 5 years to the business that it elects to displace.

Displacement may be commenced within 5 years of the election by payment to the business to be displaced of an amount equal to the gross receipts of that business for the displacement service in the area of displacement for the 12 months preceding the date of displacement.

For purposes of this subsection, "displace" or "displacement" means the provision of or contracting for or the grant of a franchise for solid waste collection or disposal service by a

2 municipality, city, county or a public benefit corporation or
3 public authority that prohibits an existing business from
4 providing the same service and where the business is providing
5 that service at the time the election to displace is made.

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SUMMARY

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This bill prohibits a municipality, city or county from prohibiting a private person from providing solid waste services within that municipality, city or county when those services are also provided by that governmental body.

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The bill also prohibits a municipality, city, county, public benefit corporation or public authority from displacing an existing business that provides solid waste collection services, unless certain procedures are followed. These procedures include holding a public hearing, providing notice of the hearing to all businesses that provide the services and to the public and providing 5 years' written notice before displacing a business. As an alternative to the 5-year delay, displacement may be commenced after payment to the business of an amount equal to the business's preceding 12 months' gross receipts for providing the services in the area.

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