

MAINE STATE LEGISLATURE

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L.D. 2442

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DATE: 4/27/00

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STATE OF MAINE
SENATE
119TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1736, L.D. 2442, Bill, "An Act Regarding the Requirement of Notice in the Acquisition of Solid Waste Hauling, Incineration Residue Disposal and Related Assets"

Amend the amendment by striking out everything after the 2nd indented paragraph after the title and before the summary and inserting in its place the following:

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, a study of market power issues in all aspects of public and private solid waste hauling and disposal industry is needed; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 38 MRSA §2111 is enacted to read:

§2111. Acquisition of solid waste and residue hauling assets

1. Prohibition. A person may not acquire, directly or indirectly, controlling stock or substantial assets that include those used in solid waste or residue hauling from a business

SENATE AMENDMENT

2 engaged in and of which more than 1/2 of the revenue is derived
3 from solid waste or residue hauling in the State without prior
4 notice as required under subsection 2.

6 For the purposes of this subsection, "solid waste or residue
7 hauling" means the collection, transportation or delivery of
8 solid waste or residue to a transfer facility or station,
9 incinerator or disposal site from residential or commercial
10 generators and customers and includes hand pickup, containerized
11 pickup and roll-off services.

12 2. Notice. The person acquiring controlling stock or
13 substantial assets under subsection 1 shall provide notice of
14 this acquisition to the Department of the Attorney General at
15 least 30 days prior to the date of acquisition. That period may
16 be shortened with the consent of the Attorney General.

18 3. Exception. Notwithstanding subsection 1, this section
19 does not apply if the business from which controlling stock or
20 substantial assets are being acquired employs 5 or fewer
21 individuals.

22 4. Confidentiality. Information received by the Department
23 of the Attorney General as a result of the notice requirement
24 under subsection 2 is confidential.

25 5. Penalty. A person that violates this section is subject
26 to a civil penalty not to exceed \$10,000, payable to the State.
27 The penalty is recoverable in a civil action. The violation
28 constitutes a prima facie violation of Title 5, section 207.

29 6. Repeal. This section is repealed 90 days after
30 adjournment of the First Regular Session of the 120th Legislature.

31 **Sec. 2. Task Force to Study Market Power Issues Related to the Solid**
32 **Waste Hauling and Disposal Industry established.** The Task Force to
33 Study Market Power Issues Related to the Solid Waste Hauling and
34 Disposal Industry, referred to in this section as the "task
35 force," is established.

36 1. The task force consists of 5 members of the Joint
37 Standing Committee on Natural Resources, appointed as follows:

38 A. Two members from the Senate, appointed by the President
39 of the Senate; and

40 B. Three members from the House of Representatives,
41 appointed by the Speaker of the House of Representatives.

2 The first Senate member named is the Senate chair and the first
House member named is the House chair.

4 Legislators may continue to serve while they are Legislators
6 until they are replaced by new appointments.

8 2. All appointments must be made no later than 30 days
following the effective date of this Act. The appointing
10 authorities shall notify the Executive Director of the
Legislative Council upon making their appointments. The chairs
12 of the task force shall call and convene the first meeting of the
task force within 30 days of the date the last member is
14 appointed.

16 3. The task force shall conduct a study of market power
issues in all aspects of the public and private solid waste
18 hauling and disposal industry. The task force may examine any
issue that the task force determines to be relevant to assessing
20 market power issues. The task force shall examine at a minimum:

22 A. Issues of market concentration or horizontal market power;

24 B. Issues of vertical market power arising from integrated
ownership or control of solid waste hauling, disposal and
26 other related assets;

28 C. The existence of barriers to entry into the solid waste
hauling industry, including required capitalization;

30 D. The reasonable geographic areas and markets in which
market power could be exercised;

32 E. The extent to which imbalances of supply and demand
34 create opportunities for the unreasonable exercise of market
power;

36 F. Issues of solid waste hauling and disposal pricing,
38 including debt service of public facilities and its
relationship to tipping fees;

40 G. The advantages and disadvantages of altering the current
42 market system in the solid waste hauling and disposal
industry; and

44 H. The approaches taken in other states to address market
46 power issues.

48 4. The task force shall consult with the following
interested parties in conducting the study: the Department of the
50 Attorney General; the Executive Department, State Planning

Office; the Public Utilities Commission; the Department of
Environmental Protection; municipal representatives; industry
representatives; and other parties as determined appropriate by
the task force.

5. The task force may retain experts or other consultants
as determined necessary in order to conduct the study.

6. Members of the task force are entitled to receive the
legislative per diem and reimbursement of necessary expenses for
their attendance at authorized meetings of the task force.

7. Upon approval of the Legislative Council, the Office of
Policy and Legal Analysis shall provide necessary staffing
services to the task force.

8. The task force shall submit an interim report of its
findings and recommendations no later than December 6, 2000 and a
final report of its findings and recommendations no later than
December 5, 2001 to the joint standing committee of the
Legislature having jurisdiction over natural resources matters.
The interim and final reports must include any legislation
necessary to implement the recommendations of the task force. If
the task force requires an extension of time to make its reports,
it may apply to the Legislative Council, which may grant the
extension.

9. The chairs of the task force, with assistance from the
task force staff, shall administer the task force's budget.
Within 10 days after its first meeting, the task force shall
present a work plan and proposed budget to the Legislative
Council for approval. The task force may not incur expenses that
would result in the task force exceeding its approved budget.

Sec. 3. Legislation. The joint standing committee of the
Legislature having jurisdiction over natural resources matters
may report out a bill related to the solid waste industry to the
First Regular Session of the 120th Legislature.

Sec. 4. Appropriation. The following funds are appropriated
from the General Fund to carry out the purposes of this Act.

2000-01

LEGISLATURE

**Task Force to Study Market Power
Issues Related to the Solid Waste
Hauling and Disposal Industry**

A. d. S.

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1736,
L.D. 2442

2 All Other \$4,500

4 Provides funds for the Task Force to Study
6 Market Power Issues Related to the Solid
8 Waste Hauling and Disposal Industry and for
the costs to retain experts or consultants.

8 **Emergency clause.** In view of the emergency cited in the
10 preamble, this Act takes effect when approved.'

12 **FISCAL NOTE**

14 This amendment reduces the General Fund cost of the bill by
16 \$3,100 in fiscal year 2000-01.

18 As amended, this bill includes a General Fund appropriation
20 of \$4,500 in fiscal year 2000-01 for the Legislature for the Task
Force to Study Market Power Issues Related to the Solid Waste
Hauling and Disposal Industry to retain experts or consultants.

22 The additional costs associated with the payment of per diem
24 and expenses of legislative members of the task force can be
absorbed by the Legislature utilizing existing budgeted resources.

26 **SUMMARY**

28 This amendment adds an emergency preamble and emergency
30 clause, provides language for replacement of legislative members
32 on the task force and changes the date by which appointments to
the task force must be made.

34
36 SPONSORED BY: Michael A. Michaud
(Senator MICHAUD)
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40 COUNTY: Penobscot