

MAINE STATE LEGISLATURE

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DATE: 4-6-00

(Filing No. H-1086)

**MAJORITY
NATURAL RESOURCES**

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
SECOND REGULAR SESSION**

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 bill by striking out the title and substituting the following:

'An Act Regarding the Solid Waste Hauling and Disposal Industry'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

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

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

COMMITTEE AMENDMENT

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

8 3. Exception. Notwithstanding subsection 1, this section
9 does not apply if the business from which controlling stock or
10 substantial assets are being acquired employs 5 or fewer
11 individuals.

12 4. Confidentiality. Information received by the Department
13 of the Attorney General as a result of the notice requirement
14 under subsection 2 is confidential.

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

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 This section is repealed 90 days after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

21 **Sec. 2. Task Force to Study Market Power Issues Related to the Solid**
22 **Waste Hauling and Disposal Industry established.** The Task Force to
23 Study Market Power Issues Related to the Solid Waste Hauling and
24 Disposal Industry, referred to in this section as the "task
25 force," is established.

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

28 A. Two members from the Senate, appointed by the President
29 of the Senate; and

30 B. Three members from the House of Representatives,
31 appointed by the Speaker of the House of Representatives.

32 The first Senate member named is the Senate chair and the first
33 House member named is the House chair.

34 2. All appointments must be made no later than 15 days
35 following the effective date of this Act. The appointing
36 authorities shall notify the Executive Director of the
37 Legislative Council upon making their appointments. The chairs
38 of the task force shall call and convene the first meeting of the
39 task force within 30 days of the date the last member is
40 appointed.

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

A. Issues of market concentration or horizontal market power;

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

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

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

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

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

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

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

4. The task force shall consult with the following interested parties in conducting the study: the Department of the 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

Personal Services	\$1,100
All Other	6,500

Provides funds for the per diem and expenses of legislative members of the Task Force to Study Market Power Issues Related to the Solid Waste Hauling and Disposal Industry, for costs to retain experts or consultants and to print the interim report.

2 **LEGISLATURE**
4 **TOTAL**

\$7,600'

6 Further amend the bill by inserting at the end before the
8 summary the following:

10 **FISCAL NOTE**

12 **2000-01**

14 **APPROPRIATIONS/ALLOCATIONS**

16 General Fund \$7,600

18 This bill includes a General Fund appropriation of \$7,600 in
20 fiscal year 2000-01 for the Legislature for the per diem and
22 expenses of legislative members of the Task Force to Study Market
24 Power Issues Related to the Solid Waste Hauling and Disposal
Industry, to retain experts or consultants and to print the
interim report. The estimated future costs in fiscal year
2001-02 will be approximately \$3,650.

26 The additional costs associated with providing staffing
28 assistance to the task force during the interim between
30 legislative sessions can be absorbed by the Legislature utilizing
32 existing budgeted resources. If an extension of the reporting
deadline is granted and the task force requires staffing
assistance during the legislative session, the Legislature may
require an additional General Fund appropriation to contract for
staff services.

34 The additional costs associated with advance notification
36 and consulting with the task force can be absorbed by the
Department of the Attorney General utilizing existing budgeted
resources.

38 The Department of Environmental Protection, the Public
40 Utilities Commission and the State Planning Office will incur
42 some minor additional costs to consult with the task force.
These costs can be absorbed within the existing budgeted
resources of the respective agencies.

44 The additional workload and administrative costs associated
46 with the minimal number of new cases filed in the court system
48 can be absorbed within the budgeted resources of the Judicial
Department. The collection of additional fines may increase
50 General Fund revenue by minor amounts.'

SUMMARY

2

This amendment, which is the majority report of the committee, changes the title of the bill. The amendment limits the application of the notice requirement in the bill to those persons acquiring controlling stock or substantial assets used in solid waste or residue hauling from a business that is primarily engaged in solid waste or residue hauling and that employs more than 5 individuals. The amendment also establishes a repeal date of 90 days after adjournment of the First Regular Session of the 120th Legislature for the notice requirement.

12

The amendment establishes the Task Force to Study Market Power Issues Related to the Solid Waste Hauling and Disposal Industry, composed of 5 members of the Joint Standing Committee on Natural Resources, to conduct a study of market power issues in all aspects of the public and private solid waste hauling and disposal industry. The task force shall consult with interested parties in conducting the study. The task force shall submit an interim report to the joint standing committee of the Legislature having jurisdiction over natural resources matters by December 6, 2000 and a final report by December 5, 2001. The amendment authorizes the joint standing committee of the Legislature having jurisdiction over natural resources matters to report out a bill related to the solid waste industry to the First Regular Session of the 120th Legislature.

28

The amendment adds an appropriation section and a fiscal note to the bill.