

COMMITTEE STATEMENT

LB 462

HEARING DATE: 2/23/99

COMMITTEE ON: Urban Affairs

TITLE: (Stuhr) Change and eliminate solid waste collection service provisions

ROLL CALL VOTE – FINAL COMMITTEE ACTION

Advanced to General File

Advanced to General File with Amendments

X Indefinitely Postponed

Vote Results:

7 Yes Senators Connealy, Hartnett, Preister, Quandahl,
Redfield, Schimek and Smith

No

Present, not voting

Absent

Proponents:

Senator Stuhr
Kelly Danielson
Don Kurtzer
John Kristensen
Steve Mossman

Opponents:

John Heil
John Fox
Michael Nolan
Jack Vavra
Lynn Rex
Richard Paterson

Neutral:

Representing:

Introducer
NE Private Waste Management & Recycling Assoc
self

Private Waste Management & Recycling Assoc

Representing:

self, Omaha

City of Norfolk

City of York

League of NE Municipalities

self

Representing:

SUMMARY OF PURPOSE AND/OR CHANGES:

This bill deals with solid waste collection services and would provide for a right to compensation for private solid waste collectors when they are “displaced” by municipal action. It would apply to cities of all classes and villages, counties, and joint combinations of any of them.

The intent of this legislation is to insure that a private solid waste hauler or collector that is forced to go out of business or forced to curtail his or her business due to the action of a municipality would be compensated by the municipality for the loss.

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A new term, “displacement,” is defined as the municipality’s provision of a service which prohibits a private company from providing the same service and which service the company is providing at the time the decision to displace is made. Displacement does not take place when the city competes with a private hauler, when a contract for service expires and is not renewed, when the continued operation by the private hauler poses a threat to public health or the hauler is in material breach of contract, or another contract has been entered into.

When a municipality intends to provide or expand solid waste collection services, it must hold a public hearing and provide at least 45 days notice of that intent to all current haulers providing service. If the municipality pursues its intent and by so doing displaces current haulers, the municipality *shall* purchase by condemnation the private solid waste collection services that are displaced (although a negotiated purchase by the municipality is permitted). The condemnation procedure must follow the procedure set out in sections 76-701 to 76-726.

Additionally, the bill repeals outright section 18-1752.02.

The basic issues involved with this bill were the subject of a recent court decision, Tracy v. City of Deshler, 568 N.W.2d 903, 1997, in which the state Supreme Court specifically held that the permit to haul garbage by a solid waste collection business did not constitute a vested property right and that municipal action which damaged the business of an individual collector would not constitute a “taking” which would entitle the company to compensation for its losses. This bill would directly overturn that decision and create a property right in the municipal permit.

EXPLANATION OF AMENDMENTS, IF ANY:

Chairman D. Paul Hartnett