

SENATE BILL NO. 278

INTRODUCED BY D. BERRY, BALES, CHRISTIAENS, CLANCY, COLE, DALE, DAVIES, EKEGREN,
ELLIS, GLASER, GRIMES, HARRINGTON, MAHLUM, D. MOOD, O'NEIL, ROUSH, TASH, F. THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE AUTHORITY OF CITIES AND TOWNS TO
BAN COMPETITION FROM PRIVATE GARBAGE AND SOLID WASTE DISPOSAL SERVICES PROVIDERS;
PROVIDING THAT CITIES OR TOWNS THAT ARE THE EXCLUSIVE PROVIDERS OF GARBAGE AND SOLID
WASTE DISPOSAL SERVICES MAY NOT REQUIRE THAT THEY BE THE EXCLUSIVE PROVIDERS AFTER
JULY 1, 2004; AMENDING SECTIONS 7-2-4205, 7-2-4305, 7-2-4506, 7-2-4610, 7-2-4736, AND
7-13-4107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-2-4205, MCA, is amended to read:

"7-2-4205. Provision of services. In all cases of annexation under current Montana law, services
must be provided according to a plan provided by the municipality as specified in 7-2-4732, except-
~~(1) as provided in 7-2-4736; and~~
~~(2)~~ in first-class cities when otherwise mutually agreed upon by the municipality and the real
property owners of the area to be annexed."

Section 2. Section 7-2-4305, MCA, is amended to read:

"7-2-4305. Provision of services. In all cases of annexation under current Montana law, services
must be provided according to a plan provided by the municipality as specified in 7-2-4732, except-
~~(1) as provided in 7-2-4736; and~~
~~(2)~~ in first-class cities when otherwise mutually agreed upon by the municipality and the real
property owners of the area to be annexed."

Section 3. Section 7-2-4506, MCA, is amended to read:

"7-2-4506. Provision of services. In all cases of annexation under current Montana law, services
must be provided according to a plan provided by the municipality as specified in 7-2-4732, except-

1 ~~——(1) as provided in 7-2-4736; and~~
 2 ~~——(2) in first-class cities; when otherwise mutually agreed upon by the municipality and the real~~
 3 ~~property owners of the area to be annexed."~~

4

5 **Section 4.** Section 7-2-4610, MCA, is amended to read:

6 **"7-2-4610. Provision of services.** In all cases of annexation under current Montana law, services
 7 must be provided according to a plan provided by the municipality as specified in 7-2-4732, except:

8 ~~——(1) as provided in 7-2-4736; and~~
 9 ~~——(2) in first-class cities; when otherwise mutually agreed upon by the municipality and the real~~
 10 ~~property owners of the area to be annexed."~~

11

12 **Section 5.** Section 7-2-4736, MCA, is amended to read:

13 **"7-2-4736. Preservation of existing garbage or solid waste service in the event of annexation. (1)**

14 ~~A municipality city or town that annexes or incorporates an additional area receiving garbage and solid~~
 15 ~~waste disposal service by a motor carrier authorized by the public service commission to conduct such~~
 16 ~~service may not, by ordinance or otherwise, elect or designate itself as the exclusive provider of provide~~
 17 ~~competitive or similar garbage and solid waste disposal service services to any person or business located~~
 18 ~~in the area AND MAY NOT ASSESS GARBAGE AND SOLID WASTE DISPOSAL SERVICE CHARGES ON PROPERTY FOR WHICH~~
 19 ~~AN OWNER OR OCCUPANT HAS ELECTED TO RECEIVE GARBAGE AND SOLID WASTE DISPOSAL SERVICES FROM A MOTOR~~
 20 ~~CARRIER AUTHORIZED TO PROVIDE GARBAGE AND SOLID WASTE DISPOSAL SERVICES WITHIN THE CITY OR COUNTY AND~~
 21 ~~WHO POSSESSES A VALID CLASS D MOTOR CARRIER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY ISSUED BY THE~~
 22 ~~PUBLIC SERVICE COMMISSION. for 5 years following annexation except:~~

23 ~~——(a) upon a proper showing to the public service commission that the existing carrier is unable or~~
 24 ~~refuses to provide adequate service to the annexed or incorporated area; or~~

25 ~~——(b) after the expiration of 5 years, if a majority of the residents of the annexed or incorporated~~
 26 ~~area sign a petition requesting the municipality to provide the service.~~

27 ~~——(2) If a proper showing is made that the existing carrier is unable or refuses to provide adequate~~
 28 ~~service to the annexed or incorporated area or, after the expiration of 5 years, if a majority of the residents~~
 29 ~~sign a petition requesting service from the municipality, the municipality may provide garbage and solid~~
 30 ~~waste disposal service to the entire annexed or incorporated area.~~

1 ~~———(3) For the purposes of determining whether an existing motor carrier provides adequate service,~~
 2 ~~those services provided by the carrier prior to annexation are considered adequate services."~~

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4 **Section 6.** Section 7-13-4107, MCA, is amended to read:

5 **"7-13-4107. Protection of private waste disposal service in municipality city or town.** (1) A
 6 ~~municipality, as of January 1, 1979, that receives garbage and solid waste disposal services from a private~~
 7 ~~motor carrier authorized by the public service commission to provide such service city or town may not,~~
 8 ~~by ordinance or otherwise, elect to provide exclusive garbage and solid waste ~~service~~ services within the~~
 9 ~~jurisdiction of the city or town AND MAY NOT ASSESS GARBAGE AND SOLID WASTE SERVICE CHARGES ON PROPERTY~~
 10 ~~FOR WHICH AN OWNER OR OCCUPANT HAS ELECTED TO RECEIVE GARBAGE AND SOLID WASTE SERVICES FROM A MOTOR~~
 11 ~~CARRIER AUTHORIZED TO PROVIDE GARBAGE AND SOLID WASTE SERVICES WITHIN THE CITY OR TOWN AND WHO POSSESSES~~
 12 ~~A VALID CLASS D MOTOR CARRIER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY ISSUED BY THE PUBLIC SERVICE~~
 13 ~~COMMISSION unless the municipality pays the private motor carrier fair market value for his equipment or~~
 14 ~~unless the municipality delays commencing the public service for a period of 5 years from the date of the~~
 15 ~~decision by the municipality to provide the garbage and solid waste services. The private motor carrier shall~~
 16 ~~be given notice of the decision by the municipality to provide exclusive garbage and solid waste services~~
 17 ~~no later than 10 days after the decision has been made by the municipality.~~

18 (2) A city or town that is providing exclusive garbage and solid waste services within its
 19 jurisdiction as of [the effective date of this act] must comply with the provisions of subsection (1) no later
 20 than July 1, 2004."

21

22 NEW SECTION. **Section 7. Severability.** If a part of [this act] is invalid, all valid parts that are
 23 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
 24 applications, the part remains in effect in all valid applications that are severable from the invalid
 25 applications.

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27 NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval.

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