

AMENDMENT #1

OFFERED IN THE HOUSE

BY REPRESENTATIVE GARA

TO: HB 156

Page 2, line 3:

Following "in the ordinance":

Insert "An ordinance may limit the exemption as it applies to deteriorated property to those eligible properties for which the exemption is needed to make the project economically feasible as that term is defined in the ordinance adopted under this subsection."

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MEMORANDUM

April 2, 2009

SUBJECT: Amendment to HB 156: exemption from municipal dumping fees
(Work order No. 26-LS 0470\R)

TO: Representative Les Gara
Attn: David Theriault

FROM: Tamara Brandt Cook
Director *TBC*

HB 156 adds a new subsection that reads in pertinent part (emphasis added):

A municipality that owns or operates a landfill or dumping area for the disposal of waste material may, by ordinance, partially or totally exempt from a fee for the use of the landfill or dumping area the disposal of waste material generated from the substantial rehabilitation, renovation, demolition, removal or replacement of a structure on deteriorated property. *The exemption may apply to some or all types of deteriorated property, as provided in the ordinance. An ordinance adopted under this subsection must include specific eligibility requirements*

You asked me to consider an amendment which, if added, would also permit a municipality to limit the dumping fee exemption to those project for which the exemption is needed to make the project economically feasible as that phrase is defined in the ordinance. The question is whether this amendment is redundant to the language already contained in HB 156.

The emphasized language quoted above grants municipalities considerable leeway in narrowly crafting an exemption so that it applies only to a very narrow class of deteriorated property and allows the municipality to include eligibility requirements. The proposed amendment is not redundant because it would specifically permit a municipality to distinguish between projects of the type identified as eligible for the exemption even in an otherwise narrowly crafted ordinance, and to grant the exemption only to the project that also meets requirements that demonstrate the need for the exemption in order to be "economically feasible." Of course, an ordinance that imposes an additional economically feasibility test for eligibility for the dumping exemption must comply with equal protection principles in distinguishing between otherwise similar projects.

TBC:ljw
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