

H B

499

SENATE COMMITTEE REPORT

DATE: 4/18/90

FURTHER: C & R A

DATE TURNED INTO OFFICE: 5/6/90

L & C

Committee considered CSHB 499 (L&C) (title am)

"An Act relating to waste collection and disposal."

and recommended:

replace with SCS CS HB 499 (L+C) same title
 or adopt _____ CS _____ new title
 attached amendment(s) technical title change (HB only)
 _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) Dept of Commerce 3/7/90

appropriation-no fiscal note

SIGNING DO PASS:

APPROVES PREVIOUS:
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) Dept of Commerce 3/7/90

Governor's bill w/fiscal note

OTHER RECOMMENDATIONS:

John Beckel No Rec
Jan Fink No Rec
Pat Rodley no rec
[Signature] NO Rec
[Signature] no Rec

[Signature]

Chair: Signature and Recommendation

HB 499 - Deregulation of Municipal Transfer Sites

House Bill 499 will exempt municipal transfer sites from APUC regulation. In effect, it will allow municipalities to competitively bid the hauling services for dumpsters and greenboxes. This legislation represents a compromise between the haulers and municipalities.

HB 499 represents a compromise between the haulers and municipalities. The bill was introduced to address problems in the Fairbanks North Star Borough, the Kenai Peninsula Borough, and Mat-su Borough. Because of the restricted use of certificated haulers, municipalities do not currently have the management tools necessary to execute a contract. Therefore, municipalities do not have control over the costs and the performance of the services provided. APUC sets the rates for each certificate holder, and is responsible for performance standards, leaving municipalities simply to pay the bill. HB 499 allows municipalities to competitively bid for these services.

HB 499 is supported by all parties concerned and will go a long way in solving some of the problems that face the Fairbanks, Mat-su, and Kenai municipalities.

SCS CSHB 499 (L&C)

HB 499 WILL EXEMPT MUNICIPAL TRANSFER SITES, (DUMPSTERS, GREEN BOXES, ETC) FROM APUC REGULATION. IN EFFECT, IT WILL ALLOW MUNICIPALITIES TO COMPETITIVELY BID THE HAULING SERVICES FOR THESE SITES. EXISTING LAW PROVIDES FOR APUC REGULATION OF THE HAULING INDUSTRY, RESTRICTING THIS SERVICE TO CERTIFICATED HAULERS ONLY.

THIS BILL REPRESENTS A COMPROMISE BETWEEN THE HAULERS AND MUNICIPALITIES. THE BILL WAS INTRODUCED TO ADDRESS PROBLEMS IN THE FAIRBANKS NORTH STAR BOROUGH, THE KENAI PENINSULA BOROUGH, AND THE MAT-SU BOROUGH. BECAUSE OF THE RESTRICTED USE OF CERTIFICATED HAULERS, MUNICIPALITIES DO NOT CURRENTLY HAVE THE MANAGEMENT TOOLS NECESSARY TO EXECUTE A CONTRACT. THEREFORE, MUNICIPALITIES DO NOT HAVE CONTROL OVER THE COSTS AND PERFORMANCE OF THE SERVICES PROVIDED. APUC SETS THE RATES FOR EACH CERTIFICATE HOLDER, AND IS RESPONSIBLE FOR PERFORMANCE STANDARDS, LEAVING MUNICIPALITIES SIMPLY TO PAY THE BILL. HB 499 ALLOWS MUNICIPALITIES TO COMPETITIVELY BID FOR THESE SERVICES.

IN THE CASE OF THE FAIRBANKS NORTHSTAR BOROUGH, THERE ARE THREE CERTIFICATED HAULERS, EACH WITH THEIR SEPARATE AREAS. IN SPITE OF SEVERE PERFORMANCE PROBLEMS, LAST SPRING THE APUC GRANTED A 30% RATE INCREASE. SINCE THE INCREASE HAD NOT BEEN BUDGETED FOR, THIS RESULTED IN THE CLOSURE OF A NUMBER OF THE BOROUGH TRANSFER SITES. DUE TO THE LACK OF CONTROL OVER INCREASING COSTS, THE BOROUGH HAS BEEN FORCED TO CONSIDER REMOVING THE TRANSFER SITES ALTOGETHER.

Page Two
HB 499

IN THE KENAI PENINSULA BOROUGH, THE SAME SITUATION OCCURRED. WHILE THERE ARE NOT PERFORMANCE PROBLEMS WITH THE HAULER, A 17% RATE INCREASE WAS APPROVED, DRAMATICALLY INCREASING THE BUDGET, AND CAUSING THE ASSEMBLY TO ELIMINATE A NUMBER OF TRANSFER SITES. CONSIDERATION IS BEING GIVEN TO ESTABLISHING USER FEES AND AN AGGRESSIVE RECYCLING PROGRAM, BOTH OF WHICH MAY REQUIRE MANNING THE TRANSFER SITES. THIS TYPE OF PROGRAM WOULD NOT BE FEASIBLE IF THE BOROUGH DOES NOT HAVE THE ABILITY TO COMPETITIVELY BID FOR THE MANAGEMENT AND HAULING OF THESE SITES.

I URGE YOUR SUPPORT OF THIS BILL.

SCS CSHB 499(L&C) IS A COMPROMISE DEREGULATION PACKAGE THAT ADDRESSES PROBLEMS THAT CERTAIN MUNICIPALITIES HAVE BEEN HAVING WITH A VERY SMALL SEGMENT OF CERTIFICATED WASTE CARRIERS. THIS BILL ALLOWS MUNICIPALITIES WITH POPULATIONS GREATER THAN 50,000 TO IMMEDIATELY CONTRACT WITH CERTIFICATED OR NON-CERTIFICATED HAULERS FOR HAULING OF WASTE FROM INTERMEDIATE TRANSFER SITES (BETTER KNOWN AS DUMPSTERS). THE BILL REMOVES THE CURRENT STIPULATION THAT THE MUNICIPALITY "BUY-OUT" THE HAULER BEFORE THEY PROVIDE DUMPSTER SERVICE IN A CERTIFICATED AREA.

THE BENEFITS OF THIS LEGISLATION ARE NUMEROUS. COMPETITIVE BIDDING CAN SUBSTANTIOALLY LOWER THE RATES AND MUNICIPALITIES WILL BE ABLE TO ENTER INTO CONTRACTUAL AGREEMENTS AND DEMAND SPECIFIC PERFORMANCE ON ALL ASPECTS OF DUMPSTER SERVICE.

HB499 IS SUPPORTED BY ALL PARTIES CONCERNED AND WILL GO A LONG WAY IN SOLVING SOME OF THE PROBLEMS THAT FACE THE FAIRBANKS, MAT-SU AND KENAI MUNICIPALITIES.

FISCAL NOTE

REQUEST:

Revision Dates: _____
 Title: Relating to municipally owned
refuse transfer sites
 Sponsor: Representative Boyer
 Requestor: Labor & Commerce

Agency Affected: Commerce & Economic Dev.
 BRU: APUC
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) No fiscal impact for FY 90.

Prepared by: T.S. Moninski II, Executive Director Phone: 276-6222
 Division: Alaska Public Utilities Commission Date: 3/7/90

Approved by Commissioner: Larry Mercurieff SIM Date: 3/7/90
 Agency: Department of Commerce & Economic Development

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

ALASKA STATE SENATE



SENATOR DICK ELIASON
SITKA
CHAIRMAN

SENATOR PAT RODEY
ANCHORAGE
VICE-CHAIRMAN

LABOR AND COMMERCE COMMITTEE

MEMBERS
SENATOR JAN FAIKS
ANCHORAGE

SENATOR JACK COGHILL
NENANA

SENATOR JALMAR KERTTULA
PALMER

April 25, 1990

The Honorable Dorothy A. Jones, Mayor
Matanuska-Susitna Borough
350 East Dahlia St.
Palmer, Alaska 99645

Dear Ms. Jones:

Proposed legislation regarding waste collection and disposal has been the focus of considerable attention in the Legislature this year, and I know that the Matanuska-Susitna Borough is very interested in the issue.

As Chairman of the Senate Labor and Commerce Committee, I have had occasion to work quite closely with this legislation (specifically, House Bill 499) and with the people lobbying for clients interested in waste collection and disposal.

As with most issues, there is disagreement over what provisions HB 499 should include, and I have been earnestly seeking a resolution to the conflicts of opinion in an effort to move the legislation. However, it seems that around each corner a road block is waiting.

Few things are more frustrating when trying to negotiate a compromise than someone giving mixed signals. I have encountered this problem in working with lobbyist Jerry Reinwand on waste disposal legislation. Jerry Reinwand's clients include the Mat-Su Borough and the Alaska Refuse Utilities Association (ARUA). It is difficult for me to understand how he can hope to represent both clients fairly on this issue. He may feel that he can, however in my view the representation he has provided ARUA on this issue may be a little more fair than the representation he has provided to the Borough.

In any case, I felt obliged to share with both the Mayor and Assembly Members of the Matanuska-Susitna Borough the nature of my frustration as I continue to strive for a reasonable compromise on legislation relating to waste collection and disposal.

Sincerely,

A handwritten signature in cursive script that reads "Dick Eliason".

Senator Dick Eliason

MATANUSKA-SUSITNA BOROUGH

Resolution Serial No. 90-027 AM

A RESOLUTION OF THE ASSEMBLY OF THE MATANUSKA-SUSITNA BOROUGH
SUPPORTING THE DEREGULATION OF SOLID WASTE COLLECTION AND DISPOSAL.

WHEREAS, the collection and disposal of municipal solid waste is a traditional police power function exercised to promote the public health, safety and welfare; and

WHEREAS, Alaska statutes currently require municipalities wishing to engage in solid waste collection and disposal to obtain a Certificate of Public Convenience and Necessity from the Alaska Public Utilities Commission (APUC); and

WHEREAS, the Alaska Public Utilities Commission has issued confusing orders regarding the regulatory scheme for solid waste collection and disposal; and

WHEREAS, the APUC statutes and its regulatory scheme for solid waste collection and disposal place an onerous burden on municipalities since it requires them to obtain special permission and to face legal challenges when attempting to implement the traditional police power function of solid waste collection and disposal; and

WHEREAS, SB 298 deregulates solid waste collection and disposal thereby eliminating the requirement that the Alaska Public Utilities Commission oversee municipal solid waste collection disposal; and

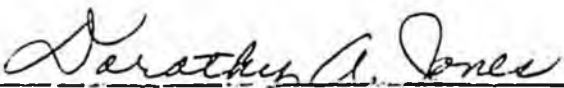
WHEREAS, SB 298 repeals a subsection of Title 29 which requires municipalities to purchase all or a portion of a Certificate of Public Convenience and Necessity of a utility

hauler if such certificate is affected by the municipality refuse collection and disposal services.

NOW, THEREFORE, BE IT RESOLVED that the Assembly of the Matanuska-Susitna Borough supports the passage of legislation deregulating solid waste collection and disposal and repealing the onerous provisions of Title 29.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to Senator Eliason, Chairman of the State Labor and Commerce Committee; Representative Larson, Co-chairman of the Finance Committee; Representative Donley, Chairman of the House Labor and Commerce Committee; Senators Binkley, Fischer, Kerttula and Szymanski; and Representatives Menard, Kubina, Navarre, Swackhammer, Wallis and Zawacki; and all other members of the Alaska Legislature, and the Governor of the state of Alaska.

PASSED AND APPROVED by the Assembly of the Matanuska-Susitna Borough this 6 day of March, 1990.



Dorothy A. Jones, Mayor

ATTEST:



Linda Dahl, Borough Clerk

(SEAL)

OK
Karl Anderson
Marilyn Huss
J. Boyer
K.P.

6-2144D
Cramer
5/2/90

Original sponsor(s): REP. BOYER, Swackhammer, Koponen, M.Davis, Sharp

1 IN THE HOUSE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 499 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to waste collection and disposal;
7 and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 29.35.050(b) is amended to read:

10 (b) The governing body of a municipality may not prohibit a
11 person holding a valid certificate from the Alaska Public Utilities
12 Commission from continuing to collect and dispose of garbage, refuse,
13 trash, or other waste material, or provide other related services in
14 an area in the municipality if the certificate authorizes the col-
15 lection and disposal of garbage, refuse, trash, or other waste materi-
16 al and providing of other services in the area, and the certificate
17 was originally issued before the municipality provided similar services.
18 Except as provided in (d) of this section, a [A] municipality may not
19 provide for a garbage, refuse, trash, or other waste material collec-
20 tion and disposal service in an area to the extent it lies in an area
21 granted to a garbage, refuse, trash, or other waste material carrier
22 by a certificate issued by the Alaska Public Utilities Commission to
23 the carrier until it has purchased the certificate, equipment and
24 facilities of the carrier, or that portion of the certificate that
25 would be affected, at fair market value. A municipality may exercise
26 the right of eminent domain to acquire the certificate, equipment, and
27 facilities of the carrier, or that portion of the certificate that
28 would be affected.

29 * Sec. 2. AS 29.35.050 is amended by adding a new subsection to read:

1 (d) A municipality may establish an intermediate transfer site
2 for the collection and disposal of garbage, refuse, trash, or other
3 waste material without purchasing the certificate, equipment, or
4 facilities of a waste material carrier certificated by the Alaska
5 Public Utilities Commission. The municipality may, without compensat-
6 ing a certificated waste carrier operating in the area, provide for or
7 contract with a certificated or noncertificated entity to provide for
8 the collection and disposal of waste material left at the intermediate
9 transfer site.

10 * Sec. 3. AS 42.05.711 is amended by adding a new subsection to read:

11 (m) The collection and disposal, under AS 29.35.050(d), by a
12 municipality of waste material deposited at an intermediate transfer
13 site is exempt from this chapter.

14 * Sec. 4. APPLICABILITY TO CERTAIN MUNICIPALITIES. The changes made in
15 this Act do not apply to a municipality with a population of less than
16 50,000 until July 1, 1991.

17 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).
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Original sponsor(s): REP. BOYER, Swackhammer, Koponen, M.Davis, Sharp

1 IN THE HOUSE

BY THE LABOR & COMMERCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 499 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to waste collection and disposal;
7 and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 29.35.050(b) is amended to read:

10 (b) The governing body of a municipality may not prohibit a
11 person holding a valid certificate from the Alaska Public Utilities
12 Commission from continuing to collect and dispose of garbage, refuse,
13 trash, or other solid waste material, or provide other related ser-
14 vices in an area in the municipality if the certificate authorizes the
15 collection and disposal of solid [GARBAGE, REFUSE, TRASH, OR OTHER]
16 waste material and providing of other services in the area, and the
17 certificate was originally issued before the municipality provided
18 similar services. Except as provided in (d) of this section, a [A]
19 municipality may not provide for a garbage, refuse, trash, or other
20 solid waste material collection and disposal service in an area to the
21 extent it lies in an area granted to a garbage, refuse, trash, or
22 other solid waste material carrier by a certificate issued by the
23 Alaska Public Utilities Commission to the carrier until it has pur-
24 chased the certificate, equipment and facilities of the carrier, or
25 that portion of the certificate that would be affected, at fair market
26 value. A municipality may exercise the right of eminent domain to
27 acquire the certificate, equipment, and facilities of the carrier, or
28 that portion of the certificate that would be affected.

29 * Sec. 2. AS 29.35.050 is amended by adding a new subsection to read:

1 (d) A municipality may establish an intermediate transfer site
2 for the collection and disposal of solid waste material without pur-
3 chasing the certificate, equipment, or facilities of a solid waste
4 material carrier certificated by the Alaska Public Utilities Commis-
5 sion. The municipality may, without compensating a certificated solid
6 waste carrier operating in the area, provide for or contract with a
7 certificated or noncertificated entity to provide for the collection
8 and disposal of solid waste material left at the intermediate transfer
9 site.

10 * Sec. 3. AS 42.05.711 is amended by adding a new subsection to read:

11 (m) The collection and disposal, under AS 29.35.050(d), by a
12 municipality of solid waste material deposited at an intermediate
13 transfer site is exempt from this chapter.

14 * Sec. 4. APPLICABILITY TO CERTAIN MUNICIPALITIES. The changes made in
15 this Act do not apply to a municipality with a population of less than
16 50,000 until July 1, 1991.

17 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).
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6-2144J ✓
Cramer
4/24/90

Original sponsor(s): REP. BOYER, Swackhammer, Koponen, M.Davis, Sharp

1 IN THE HOUSE

BY THE LABOR & COMMERCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 499 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to waste collection and disposal;
7 and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 29.35.050(b) is amended to read:

10 (b) The governing body of a municipality may not prohibit a
11 person holding a valid certificate from the Alaska Public Utilities
12 Commission from continuing to collect and dispose of garbage, refuse,
13 trash, or other solid waste material, or provide other related ser-
14 vices in an area in the municipality if the certificate authorizes the
15 collection and disposal of solid [GARBAGE, REFUSE, TRASH, OR OTHER]
16 waste material and providing of other services in the area, and the
17 certificate was originally issued before the municipality provided
18 similar services. Except as provided in (d) of this section, a [A]
19 municipality may not provide for a garbage, refuse, trash, or other
20 solid waste material collection and disposal service in an area to the
21 extent it lies in an area granted to a garbage, refuse, trash, or
22 other solid waste material carrier by a certificate issued by the
23 Alaska Public Utilities Commission to the carrier until it has pur-
24 chased the certificate, equipment and facilities of the carrier, or
25 that portion of the certificate that would be affected, at fair market
26 value. A municipality may exercise the right of eminent domain to
27 acquire the certificate, equipment, and facilities of the carrier, or
28 that portion of the certificate that would be affected.

29 * Sec. 2. AS 29.35.050 is amended by adding a new subsection to read:

1 (d) A municipality may establish an intermediate transfer site
2 for the collection and disposal of solid waste material without pur-
3 chasing the certificate, equipment, or facilities of a solid waste
4 material carrier certificated by the Alaska Public Utilities Commis-
5 sion. The municipality may, without compensating a certificated solid
6 waste carrier operating in the area, provide for or contract with a
7 certificated or noncertificated entity to provide for the collection
8 and disposal of solid waste material left at the intermediate transfer
9 site.

10 * Sec. 3. AS 42.05.711 is amended by adding a new subsection to read:

11 (m) The collection and disposal, under AS 29.35.050(d), by a
12 municipality of solid waste material deposited at an intermediate
13 transfer site and of solid waste material generated by the municipal
14 government is exempt from this chapter.

15 * Sec. 4. APPLICABILITY TO CERTAIN MUNICIPALITIES. The changes made in
16 this Act do not apply to a municipality with a population of less than
17 50,000 until July 1, 1991.

18 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).
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Offered: 3/13/90
Referred: Rules

07-1994

Original sponsor(s): REP. BOYER, Swackhammer, Koponen, M.Davis, Sharp

IN THE HOUSE

BY THE LABOR & COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 499 (L&C)(title am)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to waste collection and disposal."

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

* Section 1. AS 29.35.050(b) is amended to read:

(b) The governing body of a municipality may not prohibit a person holding a valid certificate from the Alaska Public Utilities Commission from continuing to collect and dispose of garbage, refuse, trash, or other solid waste material, or provide other related services in an area in the municipality if the certificate authorizes the collection and disposal of solid [GARBAGE, REFUSE, TRASH, OR OTHER] waste material and providing of other services in the area, and the certificate was originally issued before the municipality provided similar services. Except as provided in (d) of this section, a [A] municipality may not provide for a garbage, refuse, trash, or other solid waste material collection and disposal service in an area to the extent it lies in an area granted to a garbage, refuse, trash, or other solid waste material carrier by a certificate issued by the Alaska Public Utilities Commission to the carrier until it has purchased the certificate, equipment and facilities of the carrier, or that portion of the certificate that would be affected, at fair market value. A municipality may exercise the right of eminent domain to acquire the certificate, equipment, and facilities of the carrier, or that portion of the certificate that would be affected.

* Sec. 2. AS 29.35.050 is amended by adding a new subsection to read:

(d) A municipality may establish an intermediate transfer site

1 for the collection and disposal of solid waste material without pur-
2 chasing the certificate, equipment, or facilities of a solid waste
3 material carrier certificated by the Alaska Public Utilities Commis-
4 sion. The municipality may, without compensating a certificated solid
5 waste carrier operating in the area, provide for or contract with a
6 certificated or noncertificated entity to provide for the collection
7 and disposal of solid waste material

8 (1) left at the intermediate transfer site; or

9 (2) ~~generated by the municipal government.~~

10 * Sec. 3. ~~AS 42.05.711(d) is amended to read:~~

11 ~~(d) The commission, on a finding that no legitimate public~~
12 ~~interest will be served, may exempt a utility from all or any portion~~
13 ~~of this chapter. However, the commission may not exempt a refuse~~
14 ~~utility from AS 42.05.221 - 42.05.281.~~

15 * Sec. 4. AS 42.05.711 is amended by adding a new subsection to read:

16 (m) The collection and disposal, under AS 29.35.050(d), by a
17 municipality of solid waste material deposited at an intermediate
18 transfer site, and of solid waste material generated by the municipal
19 government is exempt from this chapter.

20 - 1 yr effective date with population
21 above 50, effective immediately

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. BOYER

TO: CSHB 499(L&C)(title am)

Page 1, line 6, after "disposal":

Insert "; and providing for an effective date"

Page 2, after line 19:

Insert new bill sections to read:

"* Sec. 5. APPLICABILITY TO CERTAIN MUNICIPALITIES. The changes made in this Act do not apply to a municipality with a population of less than 50,000 until July 1, 1991.

* Sec. 6. This Act takes effect immediately under AS 01.10.070(c)."

ALASKA PUBLIC UTILITIES COMMISSION

COMMENTS ON HB 499¹

February 26, 1990

The Commission reiterates its position in support of deregulation of the refuse industry and believes that local governments can adequately oversee this aspect of public health and sanitation.

Nonetheless, the Commission will offer the following notes on HB 499:

*Section 1, amendment to AS 29.35.050(b) - It is not clear to the Commission why the words "GARBAGE, REFUSE, TRASH, OR OTHER" are deleted on line 14 but not the three other times they appear within the same subsection.

*Section 2, amendment to AS 29.35.050 - The Commission believes that this section would have an impact on the existing market structure of the current industry. Undoubtedly the utilities and the local governments will argue about the merits of this proposed section. The Commission will be glad to provide an independent assessment of these arguments.

¹Commissioner Daniel Patrick O'Tierney was out of State and did not participate in the public meeting in which the Commission discussed this legislation.

Alaska Public Utilities Commission
Comments on HB 499
February 26, 1990
Page 2 of 2

*Section 3, amendment to AS 42.05.711(d) - The Commission opposes this amendment because it limits the flexibility of the exemption and hence, the Commission. To the Commission's knowledge, no refuse utility has ever been exempted from AS 42.05.221 ~ 281. Further, the Commission questions, as a matter of policy, why such a requirement should be placed only on the refuse industry.

*Section 4, amendment to AS 42.05.711 - To the extent that a regulated entity could contract with a municipal government, that portion of its business would be deregulated. Consequently, there would be a cost allocation issue between the regulated and nonregulated activities of the regulated entity, including the potential for cross-subsidization. There are further policy implications in allowing a municipality to service school districts. This would deprive some regulated entities of considerable revenues and thus impact the rates other customers pay.



KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA 99669
PHONE (907) 262-4441

DON GILMAN
MAYOR

TESTIMONY ON HB 499 REFUSE HAULING DEREGULATION

The Kenai Peninsula Borough supports HB 499 and the issue of deregulation of the refuse hauling industry in general. This bill represents a compromise between municipalities and the refuse haulers. HB 499, as introduced, would provide for the deregulation of municipal transfer sites, thereby allowing municipalities to haul or contract for the hauling of waste left at an intermediate disposal site.

The Kenai Peninsula Borough has sought deregulation of hauling of municipal transfer sites since the 1970's when the borough asserted that after refuse was placed in these transfer sites, it became the property of the borough and did not fall under the jurisdiction of the hauler's permit, thus allowing the borough to haul, or contract for hauling, the refuse to the landfill. The court rejected that position and determined that hauling of transfer boxes was within the scope of an existing hauler's permit and was a service already provided by that hauler. Because of provisions in Title 29 of the Alaska Statutes, a municipality cannot initiate its own hauling if the area is already served by a certified hauler, unless the municipality "buys out" that carrier.

Through a commission decision, the rate structure for hauling in the central Kenai Peninsula area is exempt from the normal PUC rate filing procedure, but obtaining a permit is still subject to PUC determination of public convenience and necessity. These circumstances cause the creation of a monopoly in many communities, that is not subject to regulation of rate. This prevents the borough from entering into a contract with competitive bids which would ensure the lowest possible cost to the taxpayers.

In 1989, the certificated hauler in the borough requested a 25% rate increase in the two areas that still have regulated rates. The APUC denied the 25% increase but granted rate increases of 17.45% in the

east peninsula area and 15.8% in the southern peninsula area. While the central peninsula area is not regulated, the hauler set those rates to reflect the 17.45% increase awarded for the east peninsula area. In reaction to these rate increases, and in an effort to contain the costs of the solid waste budget, the borough made a decision to remove five transfer sites which resulted in reduction of service to the public. Given this situation of a state agency determining the cost of doing business for a municipality, the ability of a local government to control its costs is lost.

Due to pending EPA regulations requiring strict environmental controls on solid waste disposal, the borough is now strongly considering the concept of a central disposal site, which would require waste generated in Seward, Kenai and Nikiski to be hauled to a site in Soldotna. With this increase in hauling, it is imperative that the borough be able to control the costs in this portion of the solid waste budget by being allowed to enter into a competitive bid situation, resulting in a contractual relationship with the hauler. Because only one hauler is now permitted to provide this service to the borough, this method of controlling costs is not available.

The Kenai Peninsula Borough appreciates your consideration of this legislation and urges you to pass HB 499 from committee.



Fairbanks North Star Borough Silver Anniversary

February 27, 1990

Members of the House and Senate
Alaska State Legislature
P. O. Box V
Juneau, AK 99811

RE: HB 499 and SB 298 - Waste Collection Deregulation

Dear Legislators:

I would like to speak in favor of HB 499 and SB 298.

First, I want to make it clear that the Fairbanks North Star Borough is not interested in operating a waste collection department. We want to contract with the private sector for that service. What we do want is competition and the ability to manage our contractors. Given the regulation by APUC of the collection of solid waste, the Borough cannot continue to operate that service. APUC regulates only fees, not the delivery of service.

Under the present system, the haulers are given a certificate (monopoly) for a given area, and no one else may haul solid waste in that area. We were contracting with those haulers to service our dumpster system. That contract allowed us to dictate performance standards. One hauler discovered that if he refused to sign the contract, we still could not do business with anyone else, so he couldn't be held to any performance standards. Repeated complaints to APUC regarding lack of service, filth at dumpster sites, and failure to perform netted no results.

I have been Mayor for four plus years, and have tried to operate under the present rules. Believe me, it works fine with the good haulers. It does not work at all with the bad. When irate citizens complain about stinky dumpsters they do not go to the state, they come to me. When I tell them I have no control over the hauler since the state certifies them but doesn't regulate their quality of service, it sounds like a lame excuse, and the citizens are not satisfied. Neither am I.

Without legislation that returns the management ability to the Borough, the present system is unworkable. All we are now is a bill collector for the hauler. If the state continues to regulate the hauling through exclusive certificates which precludes local management of contracts, I am ready to get out of the way and let the state do it all.

Finally, I would like to remind you that last year the Fairbanks North Star Borough began pushing for full deregulation, and the present legislation before you is a drastic compromise from that position. I support this legislation which protects the haulers' property rights, while returning the management ability to the local service provider.

Sincerely,

Juanita Helms
Juanita Helms
Borough Mayor

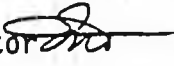
Alaska MUNICIPAL League

TELEPHONE
(907) 586-1325
FAX 463-5480

217 SECOND STREET, SUITE 200
JUNEAU, ALASKA 99801

February 27, 1990

TO: Representative Dave Donley, Chairman
Members of the House Labor and Commerce Committee

FROM: Scott A. Burgess, Executive Director 

SUBJECT: HB 499 - Relating to waste collection

The Alaska Municipal League supports HB 499 to the extent that it moves in the direction of deregulating solid waste services.

The Alaska Municipal League's 1990 Policy Statement states on page 38:

Deregulation of Solid Waste: The League supports statutory changes to eliminate APUC regulation of solid waste collection and disposal.

I understand from representatives of several of our member municipalities that have been working on this issue that HB 499 represents a compromise to complete deregulation acceptable to representatives of private haulers and those municipalities with current and specific problems. If complete deregulation is not possible through this or other legislation this year, then AML supports HB 499 as introduced as a compromise, recognizing that all compromises are not completely acceptable to all parties.

The collection and disposal of solid waste is a traditional municipal service and Title 29 grants the authority for this function to municipalities. However, Title 29 (AS 29.35.050 (b) also restricts a municipality from providing this service if a private provider holds a certificate. A municipality wishing to enter the solid waste collection and disposal business can purchase the certificate or acquire it under its powers of eminent domain. HB 499 makes an exception to current law for the collection and disposal of waste material left at a transfer site or generated by the municipal government or by a school district.

Solid waste is a growing environmental concern replete with increasing federal and state regulation and increasing potential costs to municipalities and private operators. A municipality must have adequate control over solid waste collection and disposal in order to meet its, in many cases mandated, responsibility to protect the public health and welfare, specifically, protecting the health of its citizens and the environment and to keep costs at the lowest possible level.

Again, AML supports the complete deregulation of solid waste collection and disposal but also supports HB 499 as introduced as an acceptable compromise to deal now with specific problems in several of our member municipalities. Thank you.

sab3:hb499

By: Chris Birch
Introduced: 03/30/89
Adopted: 03/30/89

RESOLUTION NO. 89-035

A RESOLUTION SUPPORTING DEREGULATION OF
GARBAGE AND SOLID WASTE

WHEREAS, under current Alaska law the Alaska Public Utilities Commission regulates the operation of garbage and solid waste disposal through its certification process, and

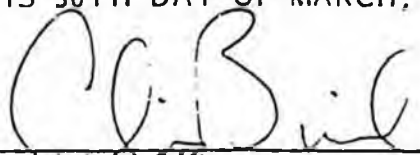
WHEREAS, the certification process results in needless expenditure of municipal funds in the procurement of garbage and solid waste collection and disposal, and

WHEREAS, if the collection and disposal of garbage and solid waste were deregulated municipalities could procure these services for the taxpayers of Alaska at a much lower cost than is currently the case, and

WHEREAS, it has been the experience in other industries that have been deregulated that costs immediately go down as market competition influences the industry that has been deregulated.

NOW, THEREFORE, BE IT RESOLVED that the Assembly of the Fairbanks North Star Borough urges the Alaska legislature to deregulate the collection and disposal of garbage and solid waste.

PASSED AND APPROVED THIS 30TH DAY OF MARCH, 1989.



Presiding Officer

ATTEST:



Clerk of the Assembly

PRESS RELEASE

FOR IMMEDIATE RELEASE

February 12, 1990

FOR INFORMATION CONTACT:

Representative Mark Boyer 465-3466

Municipal Dumpster Service Deregulation

On February 9th Representative Mark Boyer introduced legislation that would deregulate "dumpsters" in the state. The act would allow municipalities to contract with anyone in the private sector for dumpster service. At the present time only certificated haulers who are regulated by the Alaska Public Utilities Commission are allowed to perform this task. The present system has lead to a breakdown in any competitive system with resulting higher cost of service, no control of costs, no contractual agreements between parties, and poor complaint response. Representative Boyer said, " this legislation will remove the barriers to competition and will go a long way in providing the Fairbanks' area with less expensive and higher quality dumpster service." Deregulation has long been sought by the Fairbanks North Star Borough

as a way to improve the quality of service. "I am hopeful that the compromise language of HB499 will be enacted early," Boyer said. The only remaining issue between haulers and municipalities is over the effective date, Boyer indicated. "That is an issue which can be more properly addressed by the Labor and Commerce Committee, the only committee of referral for the bill. Representative Boyer is a member of the House Labor and Commerce Committee.

HB499

On February 14th, 1989 Legislative Audit issued its findings on APUC and concluded that it should continue to regulate public utilities and pipelines. APUC was created to regulate public utilities so that the citizens could enjoy adequate service at the lowest reasonable rates. The audit's analysis did reveal several industries where regulation could be eliminated with negative public impact. The refuse collection industry was one which was recommended to be no longer regulated for four main reasons:

1. The APUC did not have the funds or personnel to regulate these utilities.
2. The refuse industry is not as capital intensive as fixed utilities.
3. Competition would not be detrimental to the public interest.
4. 91% of the states returning questionnaires to the auditors did not regulate refuse utilities.

Without going into great detail about the legislative and court proceedings following the commission recommendation to deregulate the refuse industry, the industry is still regulated. The haulers believe that through the issuance of competing certificates in the same area however the APUC is in fact still trying to deregulate them. Although this may be true, it has also proved (at least in the Mat-Su Borough) that this deregulation is good for the consumers. "...one result has been an increase in the number of residential customers who utilize the residential pick-up option."

The specific problems of regulation in the FNSB are:

1. Not able to use competitive bidding process to select contractor to haul public dumpsters or operate transfer stations. The cost of refuse disposal has increased 12-18% each year since the beginning of the program 14 years ago. Deregulation could result in a cost savings of 30-35%.
2. Lack of APUC staff in Fairbanks lead to inadequate monitoring and control of certificated haulers. There has been

much higher costs for inadequate service with no complaint response.

3. The FNSB can't force the haulers into a contract if they don't want to sign one. Consequently there is no ability to specify standard equipment or assure quality service.

4. The FNSB with the burdens of a tax cap, ^{has} ~~have~~ no leeway on nonareawide expenditures. With a proposed tariff increase the borough's only alternative to cancelling dumpster service would be to cut emergency medical services in order to pay for waste collection.

The final argument to deregulation of solid waste collection is just pointing out the difference between collection and disposal. Disposal is regulated at the state level by the dept of Environmental Conservation.

Haulers of refuse cannot claim to have great impact on public health and safety or the environment except when they don't perform properly. This is the problem in Fairbanks. Lack of adequate dumpster service has lead to overflowing dumpsters with subsequent pollution and pest problems. Collection is almost entirely a transportation issue and is really no different than the transport of any other freight commodity and should be treated as such. Once the waste is transported then it is disposed of and that is regulated by a host of agencies. Arguments to the effect that regulation of haulers benefits recycling efforts is again erroneous because one is again mixing collection with disposal.