

FEBRUARY 1983

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
		1 8:00 HB 73 HB 186 HB 490	2 9:00 HB 480 HB 503 HB 523 HJR 14	3 9:00 HB 534 HB 529	4 9:00 HB 576 HB 574 HJR 16	5
6	7 9:00 HB 563 HB 578 HB 607	8 9:00 HB 571 HB 572 HB 592	9 9:00 HB 605	10 9:00 HB 627 HJR 18	11 9:00 HB 633 HB 595 HB 647 HB 638	12
13	14 9:00 SB 53 SB 151 SB 75 HB 695	15 9:00 HB 701 HB 662 HB 670 HB 691 HB 696	16 8:00 HB 710 HB 716 HB 727	17 8:00 HB 815 HB 765 HB 752 HB 751 HB 783 HB 790	18 8:00 HB 853 HB 553 HB 814 HB 827 HB 838 HB 834	19
20	21 8:00 HB 852 HB 883 HB 886	22	23 45th DAY!	24	25	26
27	28					

HOUSE BUSINESS & INDUSTRY COMMITTEE

Chairman, Rep. Jerry Metcalf, called the Business & Industry Committee to order on February 1, 1983, at 8:00 a.m. in Room 420 of the Capitol Building, Helena, Montana. All members were present.

HOUSE BILL 490

REP. JAY FABREGA, District 44, sponsor, opened by saying this bill is at the request of the Board of Architects. He said at the present time they use a variety of terms which all mean the same thing; registered, certified and licensed. It's being changed to just licensed. Also, this bill opens up the field to architects licensed in other states so they may bid a job in Montana and purchase their license after they receive a commission.

GEORGE PAGE, Board of Architects, said the Sunset Review which took place four years ago pointed out that the Board was not doing enough regarding enforcement or discipline of those working in the design industry. Please keep that in mind.

MARTY CRENNEN, architect, Helena, said in Section 37-65-103 there are certain exemptions that exempt people from being licensed. In Section 37-65-202, we are saying that the reality of cost should be addressed. In Section 37-65-305, we will allow out-of-state architects to come to Montana and if they receive a commission they should be licensed. In Section 37-65-321, we deal with the reasons for revocation of licenses. It would give the board more discretion in what violates building codes.

BONNIE DONAHUE, President of the Board of Architects, said we are currently limiting those who can even serve on this board because Board members are compensated in the very same way that state employees are and it's so expensive to serve as a member, they are limiting their board to only those who can afford to do so. This board is funded solely by private funds provided by the architects. They would like the word "state" amended to read "board" on page 4, line 24. (Exhibit #1)

RAY JOHNSON, Montana Chapter American Institute of Architects, said they feel this bill will benefit them in the enforcement and discipline against violaters of this act.

OPPONENTS: none

QUESTIONS:

REP. HANSEN: On Page 4 you changed from 8 living units to 6 as a criteria for a non-licensed architect to build or work on. Why?

Mr. CRENNEN: To be in conformity with most city building codes.

REP. FABREGA: And to get a license - otherwise the city will not approve them.

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Business & Industry Committee

HOUSE BILL 73

REP. JAMES SCHULTZ, District 48, sponsor, opened by saying this bill had been amended seven times before it was presented to the legislature and today he proposed one more amendment. (Exhibit #2) He stated Montana was unique in the garbage business as we are the only state that regulates all phases of garbage collection but the rates. 43 states do not regulate this business at all. We all recognize the large investment this business requires but there is a point where free enterprise must be considered.

PROPOSERS:

DARRYL MEYER, Montana Solid Waste Contractor, Great Falls, said he was in favor of this bill and it will correct the problem they have in Lewistown the past year.

WAYNE BUDT, Montana Public Service Commission, said they support this bill. It has a method of solving the problems they have had with the garbage collectors. Without this bill, evidence cannot be taken into consideration.

SCOTT ORR, Montana Solid Waste Contractor, Libby, said our system is working very well and our rates are competitive with any other state. He supports the amendment to the bill.

MIKE STEVENS, Montana Association of Counties, said they support HB 73 and it is an effort to help solve the problems that have surfaced lately.

SENATOR DOVER, District 24, said the problem that arose in Lewistown was a very serious problem and he urged the committee to look very closely at it for some solution. They could not solve the problem there because they went to the PSC for answers and they said go to the legislature. He said Jerry Cate in anti-trust said this bill may be a serious anti-trust violation in the State of Montana. He said he believes the state is protecting an unregulated monopoly.

OPPOSERS:

MARVIN MINTYALA, Lewistown, said he was the fella from Lewistown that seems to be the reason for the problem. He said since 1947 the PSC has used necessity as a requirement to get a certificate. To this date, competition has not been a factor except after a permit is issued or that necessity is proven to exist. Competition has cost his customers a 38% rate hike. He said he can see alot of law suits coming in if this bill passes.

QUESTIONS: none

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Business & Industry Committee

HOUSE BILL 186

REP. TED NEUMAN, District 33, sponsor, opened by saying HB 186 was another approach to the problem addressed in HB 73. He said there are 40 cities and 11 counties in Montana where haulers have a complete monopoly by way of the PSC. This bill would allow the PSC to grant a certificate to any hauler backed by a local government. We would ask that on Page 3, line 10 you delete the word Class D Motor Carrier because it would cause more problems, so please leave the original language in there.

PROPOSERS:

PHILLIP GENDELSON, Granite County, said his county is about to embark on a new solid waste system. The county finds itself in a catch 22 situation. Anything over \$25,000 they must put out to bid. We have a state run monopoly, he said, and they are requested to give it to the lowest bidder. This bill would not deregulate the industry but it would allow the counties to run their community governments more efficiently.

ED McCAFFEY, Commissioner, Rosebud County, said this happened in his county and they could not give the bid to the lowest bidder. It will allow flexibility that they do not now have, and will bring the price down with the competition.

WAYNE BUDT, Public Service Commission, said as it is now, cities and counties must come to the PSC and prove that there is a need for another certificate in their area and even after the bid is in they must do this. The contractor has to prove that the present contractor is not capable of handling the job if he wants into that area. With this bill, after the local government has made a determination, then the PSC will automatically issue a certificate on that contract. Local governments are better able to decide who they want. It should be noted that the certificate issued will only exist for the length of the contract. After that they will die.

ALEC HANSEN, Montana League of Cities and Towns, said he thinks it has been proven that competition has saved the public millions of dollars and he supports the amendments in HB 186.

REP. GARY SPAETH, District 71, said Red Lodge has had a garbage dispute for almost two years and they have been in and out of the courts and he is glad to testify in support of HB 186 because they "all" feel it will help solve the garbage problem in Red Lodge.
(Exhibit #3)

OPPONENTS:

BILL ROMINE, Solid Waste Contractors, said this bill will provide unfair competition. A contractor goes to the trouble and expense of servicing an area and buying the equipment and being certified and suddenly the local town decides to put your area up for bids.

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Business & Industry Committee

We are talking about taking the work from someone who is certified and giving it to someone waiting out in the woods for the bid chance. We shouldn't have to give the bid to the lowest bidder, we should give it to the best qualified. The problems of the garbage collectors is solved in HB 73. If you pass this bill, the people in town will get service but what about the people in the rural areas surrounding the town?

LESTER FOLEY, Solid Waste Contractor, Billings, said he could not get a performance bond required by the city and had to settle for a one year contract. He figured 7% inflation costs on his bid and Mr. Heidman (sp) came in \$1,000 lower and he didn't have PSC. They, therefore, lost Red Lodge and went to court but lost there also. He said there is a lot of money involved here. He stated we will lose Ma and Pa businesses to big out-of-state companies with lots of cash to invest. They wouldn't service the rural areas, and he is definitely against House Bill 186.

F. L. GREEN, retired Solid Waste Contractor, Great Falls, stated from personal experience his bad encounter with an out-of-state company who received the bid for Great Falls and who underpaid their employees and didn't give any benefits in order to make money on the low bid they went in with. He said the money paid to big out-of-state companies doesn't stay in Montana where it belongs.

SCOTT ORR, President, Solid Waste Contractors, said they oppose this bill for the simple reason that it would spell economic destruction for the small businesses in the state.

JOHN PALAGI, Solid Waste Contractor, Great Falls, said he not only has other haulers to compete with in Great Falls but he has the municipalities. When they open this up to bid, why would Great Falls give it to the guy who has been competing with them all these years, they would look like the loser. We are just small businessmen trying to make it.

REP. NEUMAN, in closing, said he thinks both sides have valid points. He said he thinks all elected officials will take into account the quality of a contractor before they go with him, and he would have to comply with PSC rules.

QUESTIONS:

REP. KADAS: In this audit it says there are only six states that do any regulating. What's going on in the other 43 states?

Mr. Orr: You will find the conglomerates who take the cream and then the rural areas are left to the private businesses.

REP. METCALF: There must be some regulation of these. Would it be local government regulations? Mr. Orr: Yes.

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Business & Industry Committee

REP. FABREGA: How feasible is it to not take the lowest bid?

Mr. McCaffey: The law says that you will take the lowest responsible bid. You consider the responsibility of the bidder and the equipment they have to do the job.

REP. PAVLOVICH: How many big conglomerates in Montana? Mr. Foley: They have purchased Missoula two years ago and now they are looking for more places. REP. HANSEN: How did they purchase Missoula?

Mr. Foley: They purchased the PSC permit in Missoula. REP. KIT-

SELMAN: Is the garbage hauler permit something unique in that once you buy the license it is yours? What's the resale on it? Mr.

Budt: The state does not collect anything from sale or transfer.

The application fee is from \$200 to \$300. Mr. Palagi: I purchased two permits over the last five years. Mr. Green is receiving \$75,000 for his permit and it has given me an area of customers.

Another area did not have the customers and I bid \$30,000 for it.

REP. LYBECK: How much is handled by cities and counties themselves in the garbage business? Mr. Foley: I'd say it would be 70% by private enterprise and 40% by cities.

QUESTIONS ON HOUSE BILL 73 CONTINUED....

REP. ELLERD: What is the status of your garbage bill in the Senate now? Senator Dover: It's waiting to what you do.

REP. FABREGA: How does this violate anti-trust? Sen. Dover: I just found out about it today from Jerry Cate. BILL OPITZ, Executive Director of PSC: Our attorneys evaluation is that it does not violate anti-trust.

REP. ELLERD: Sen. Dover, are you in favor of HB 73? Sen. Dover: I am not in opposition to it, I just want to be sure it does the job.

REP. KADAS: Sen. Dover, how would you feel about the PSC setting rates? Sen. Dover: They tried to do this last time and the haulers didn't want it. If you are going to control a monopoly, you might need to control rates.

REP. HART: What exactly is it that the PSC can't do now? Sen. Dover: We had three or four haulers in Lewistown which dwindled down to one and there was no competition and the PSC said no we can't open it up. BILL OPITZ: We issued another certificate because the people in Lewistown said they wanted competition. District court said we could not use competition as a criteria in granting a certificate.

EXECUTIVE SESSION:

HOUSE BILL 490

REP. FABREGA moved a DO PASS MOTION.

REP. JENSEN: On page 4, line 21 you take the architects out of the board plan, does this mean doctors and lawyers can do it next?

Paul Verdon: There is an escape hatch that says "unless otherwise provided by law" - the law does allow exceptions.

REP. FABREGA moved the proposed amendments. Unanimous vote, Fagg abstained

Question: The motion that HOUSE BILL 490 DO PASS AS AMENDED carried unanimously with Rep. Fagg abstaining.

REP. KITSELMAN moved the Statement of Intent.

Question: Carried unanimously, Rep. Fagg abstaining.

FEBRUARY 2, 1983

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Business & Industry Committee

J. Metcalf

REP. JERRY METCALF, CHAIRMAN

Linda Palmer

Linda Palmer, Secretary

STANDING COMMITTEE REPORT

FEBRUARY 1

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SPEAKER:

MR.

BUSINESS & INDUSTRY

We, your committee on

HOUSE

490

having had under consideration Bill No.

first reading copy (white)
color

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS CREATING THE STATE BOARD OF ARCHITECTS AND RELATING TO THE LICENSURE OF ARCHITECTS BY THE STATE; GRANTING THE BOARD THE AUTHORITY TO ADOPT RULES; AMENDING SECTIONS 37-65-102, 37-65-103, 37-65-202, 37-65-301 THROUGH 37-65-303, 37-65-305, 37-65-321, AND 37-65-322, MCA."

HOUSE

490

Respectfully report as follows: That Bill No.

BE AMENDED AS FOLLOWS:

Page 4, line 24
Following: "official"
Strike: "state"
Insert: "board"

AND AS AMENDED

DO PASS

MR. SPEAKER:

WE YOUR COMMITTEE ON BUSINESS & INDUSTRY, HAVING HAD UNDER CONSIDERATION HOUSE BILL NO. 490, FIRST READING COPY WHITE, ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT
HOUSE BILL No. 490

A statement of intent is required for this bill because it grants the Board of Architects the authority to adopt rules implementing Title 37, Chapter 65.

Currently, the chapter of state statutes governing the licensing of architects contains no general grant of rulemaking authority such as those available to most other state agencies and licensing boards. The Board of Architects must therefore rely on the grants of rulemaking authority applicable to all boards contained in 37-1-131 which allows only the adoption of rules "governing licensing, certification, registration and conduct of" architects, upon 37-1-136 allowing the board to adopt rules relating to disciplinary action, and upon 2-4-201 requiring every agency to adopt procedural rules. Thus, the board has no authority to adopt rules unauthorized by those sections of law. HB 490 grants the board general rulemaking authority to adopt any rule "necessary" to implement all previously existing statutes contained in Title 37, Chapter 65. Any such rules must be adopted under the Montana Administrative Procedure Act.

INFORMATION SHEET FOR HB 490

"State Board of Architects"

PRESENTED BY: Bonnie Donohue, Board President and Public Member

DATE: February 1, 1983

HB 490 is AN ACT FOR A BILL ENTITLED "AN ACT GENERALLY REVISING THE LAWS CREATING THE STATE BOARD OF ARCHITECTS AND RELATING TO THE LICENSURE OF ARCHITECTS BY THE STATE: GRANTING THE BOARD THE AUTHORITY TO ADOPT RULES; AMENDING SECTIONS...."

This information sheet pertains to Section 37-65-202, which, if passed, would read as follows:

37-65-202. Compensation of board members -- expenses.

Each member of the board is entitled to receive compensation at the rate of \$25 a day and the actual cost of mileage or other reasonable transportation costs, meals, and lodging when engaged in official State Board business.

We would appreciate having the word "state" amended to read "Board". The precedent for this terminology is found in Title 37 General Provisions, Sect. 37-1-133. Please see the attached.

GENERAL STATEMENT: Part of the responsibility of the Public Member is to represent the interests of the public to the Board and view things in perhaps a more objective way than those Board members who are also a part of the profession they seek to regulate. I think I share in common with you Legislators the desire to see that this Board is equitably and responsibly operated for the good of the people of the State of Montana. I will confine my comments in this regard to the issue at hand, compensation of board members - expenses.

I have discovered that by virtue of the current statutes that we are very seriously limiting those who can even serve on this board. Because Board Members are compensated in the very same way that State employees are, the personal expense to board members is very high. Since it is so expensive to serve as a member we are limiting our board to only those individuals who can afford to do so. I see this as depriving ourselves of the services of many gifted and talented people.

One of the most important facts I see as I study this problem is that contrary to the way State funds are normally collected (public taxes), this Board is funded solely and entirely by private funds provided by Architects only. The professional and occupational boards are the only boards funded exclusively by a singular group, whose accessibility to that group requires a long term professional education. While enactment of this clause would likely relate to other like boards, I point out that it would effect only the boards who are part of the Professional and Occupational Licensing Bureau. Other types of Boards could be excluded because they generate funding from a broad cross-section of the public. Example: Anyone can get a Fish & Game license. To get an Architect's license you need the equivalent of 4 years of college, 3 years practical experience and be able to pass a professional exam. The monies raised by boards belonging to this Bureau truly come from a select group for a select purpose - a statement which would not apply to Boards outside our Bureau.

On the attached page you will see some pertinent facts which we feel underscore the differences between a State employee and a Board member.

In looking at the situation from an Architect's point of view who paid his fee and hoped for competent and fair representation I would expect to be represented at national and regional meetings. I would expect my representative to stay where the convention is being held, eat a reasonable meal, and confine other expenses to absolute necessities. This being done I would not expect that it should cost my representative several hundred dollars personally to represent my interests.

The following facts indicate the current compensation for board members at the State rate:

	<u>IN-STATE</u>	<u>OUT-OF-STATE</u>
Meals	\$13.50 per day	\$22.50 per day
Lodging	\$24.00 per day	\$50.00 per day (except in designated cities where it is actual)
Mileage	20¢ per mile	20¢ per mile up to equivalent of airfare.

The following are a few pertinent facts which I feel underscore the differences between a State employee and a Board Member:

STATE EMPLOYEE

BOARD MEMBER

Paid by public taxes

Paid by funds provided solely from Architectural license renewal fees from architects in and out of the State.

Has a full-time job with the State and continues to receive a daily wage while traveling.

Leaves private employment to do a public service, thus losing time, money, and productivity for the time spent serving others. His only compensation for this time is \$25 per day. Architects earn many times this amount in daily practice. This amendment, however, does not request any change in the \$25 compensation.

Lodging: When taxpayer dollars are used general limits and guidelines must be applied to keep within budget.

License fees are raised or lowered to meet the current Board needs. The Sunset Review requires the Board to meet throughout the State to give all areas of the public access to the board. These are professionals meeting with other Architects and should be able to meet in a surrounding normal to them as when they meet in non-state architectural matters. Normal would be such as the Ramada or Holiday in Billings whose single rate is about \$38...and far from the \$24.00 State rate. One National and one Regional meeting per year is held in major cities like Portland, Philadelphia, or Atlanta. Rates there range from \$75 - \$110....not \$50 as in the State rate. Since Architects who pay the fees don't expect their representatives to pay the additional from their own pockets, why is it reasonable for the State to insist on it when it isn't necessary or even funded by public monies?

Meals: Here again we are using public tax money and must have a system for budgeting.

If an architect eats a mid-range meal and has perhaps one drink I think the architects paying for this through their licenses would consider this reasonable and expected. You cannot eat even two mid range meals in Missoula or Billings for \$13.50 and certainly not three such meals in Atlanta or Portland for \$22.50. These people are already losing money by leaving their work, can we ask them to also give up a normal quality meal? Or to pay the difference when it isn't a matter of the taxpayer's dollar?

Mileage: State cars are available. If private cars are used they must be cogniscent of the budget.

Most cars driven by Architects cannot be operated for 20¢ a mile. While a flat rate would probably have to be applied, with rare exception, it should be raised to equate with the cars normally driven by Architects.

TIME: Whatever time they spend it is compensated for by the State.

Board members spend a great deal of personal time working Board matters outside the context of meetings. This time goes totally uncompensated in any form and is taken away from time they would normally spend in their own profession.

SUMMARY: Viewing this situation from the Public Member point of view it seems very unreasonable to ask a professional to leave his livelihood to serve the public interest and ask so much of him in terms of uncompensated time, yet there are many who willingly do just this. However, when it becomes necessary to financially subsidize his own public service with several hundreds of dollars per year when his own colleagues are willing and can see justification in compensating his actual travel expense, I feel we must correct the law accordingly.

Further, I protest the fact that it limits who can serve on the Board. Do we really intend to limit Board members only to a group who can afford to do so? I don't at all feel this is in the public interest.

Thank you for your own public service in leaving your place of livelihood to serve us. Unfortunately, you are funded with public tax dollars and can be compensated with only what the budget and the people will allow.

We thank you sincerely for your fair consideration on this matter.

Proposed Amendment to HB 73

1. Title, line 6.

Following: "COMMISSION"

Strike: "MUST"

Insert: "MAY"

2. Title, line 7.

Following: "CONSIDER"

Strike: remainder of line 7 through "AND" on line 8.

3. Page 1, line 20.

Following: "for a"

Strike: "remainder of line 20 through C" on line 21.

4. Page 2, line 12.

Following: "(b)"

Strike: remainder of line 12 through line 18 in their entirety.

Insert: "For purposes of class D certificates, a determination of public convenience and necessity may include a consideration of competition."

Exhibit #3

January 26, 1983

Legislative Committee on Business and Industry
Room 420
Capital Building
Capital Station
Helena, Montana 59601

Committee Members:

The City of Red Lodge, Montana urges your favorable consideration of House Bill 186 regarding the issuance of a class D Public Service permit to the successful bidder for municipal garbage collection.

Red Lodge has experienced considerable frustration and problems because we have had to "employ" the successful bidder in two different time periods because the collector could not obtain a class D permit.

In one of these situations, Red lodge ran into problems with the collector "employee", who became somewhat of a renegade who acted independent even though he was a City employee. He caused problems with some of the local citizenry and these problems eventually ended up in the State Supreme Court, where a decision is still pending.

Red Lodge, and many other cities, are unable to properly accept low bids for garbage collection. This leaves the current permit holders with a monopoly on the service. We had a permit carrier from Billings at one time that was forced upon us by the State PSC rules. This carrier was the worlds worst and we chose to go with our current arrangement, even though it is far from satisfactory and leaves us with a question of legality.

The propose bill will solve the problems we have experienced in a reasonable and legal manner, and it will help us to avoid the problems we have had to experience.

Respectfully yours,

Ronald R. Kotar
Ronald Kotar, Mayor

Statement of Intent for House Bill 490

A statement of intent is required for this bill because it grants the board of architects the authority to adopt rules implementing Title 37, Chapter 65.

Currently, the chapter of state statutes governing the licensing of architects contains no general grant of rulemaking authority such as those available to most other state agencies and licensing boards. The board of architects must therefore rely on the grants of rulemaking authority applicable to all boards contained in 37-1-131 which allows only the adoption of rules "governing licensing, certification, registration and conduct of" architects, upon 37-1-136 allowing the board to adopt rules relating to disciplinary action, and upon 2-4-201 requiring every agency to adopt procedural rules. Thus, the board has no authority to adopt rules unauthorized by those sections of law. HB 490 grants the board general rulemaking authority to adopt any rule "necessary" to implement all previously existing statutes contained in Title 37, Chapter 65. Any such rules must be adopted under the Montana Administrative Procedure Act.

VISITOR'S REGISTER

HOUSE

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COMMITTEE

BILL

HB 186

DATE

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SPONSOR

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Bill Oates	Helena	MPSC	X	
Wayne Burt	"	MPSC	X	
W. J. Boring	Helena	Solid Waste		X
Leahy Foloy	ACT & Douglas			X
Leahy Foloy	D & F			X
Leahy Foloy	Valley			X
72 + Elm Tree	Brace Falls	Retired Contractor		X
Donna Thompson	Helena			X
Emil Thompson	Helena			X
Land Holog	GREAT FALLS	Solid Waste		X
Henry A. Day	Cal Falls	Waste Haul		✓
Wynne Clarke	Victor	Mid. Valley		X
John E. Edwards	Miss City	Miss City Sanitation		X
Denny Hunter	Belling	Big Sky Haul-away		X
Al Bahr	Big	Yellowstone San		X
Scott J. Orr	LIBBY	MONTANA SOLID WASTE CENTR		X
August Kelly	Kearls Falls	Evergreen Disposal		X
August Kelly	Kearls Falls	Evergreen Disposal		X
John Talaga	GREAT FALLS	Solid Waste Assoc		X
John Talaga	Dist 33		X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE

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COMMITTEE

BILL

HB 73

DATE

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SPONSOR

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Bill [unclear]	Helena	MPSC	X	
Wayne B. [unclear]	"	MPSC	X	
B. H. Remine	Helena	Solid Waste	X	
Leslie E. Foley	A & T Disposal		X	
Leslie E. Foley	D & F [unclear]		X	
Leslie E. Foley	Valley		X	
F. L. & E. [unclear]	Great Falls	Refuse Contractor	X	
Norma [unclear]	Helena		X	
Ernie [unclear]	Helena		X	
David [unclear]	GREAT FALLS	Solid Waste	X	
Jandra B. Mintz	Lewistown Mt	Waste M Disposal		X
Nathan Mintz	Lewistown MT.	Waste M Disposal		X
Samuel [unclear]	Bocannon NM.	Conservation	✓	
Joe [unclear]	" "	" "	✓	
Kenney A. [unclear]	Col. Falls	Waste Haul	✓	
William D. Clark	Victor	Mid-Valley	✓	
Darryl [unclear]	Gr Falls	Waste Solid Waste Contractor	✓	
John [unclear]	Miles City	Miles City [unclear]	✓	
Dennis [unclear]	Billings	Big Sky Hauling	✓	
Al Bark	Bly	Yellowstone Sanitation	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE

COMMITTEE

BILL

DATE _____

SPONSOR

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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE

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COMMITTEE

BILL

HB 490

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SPONSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

~~SECRET~~
Sec of Com.

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, FOR THE RECORD,
MY NAME IS JAMES SCHULTZ, REPRESENTATIVE FOR DISTRICT 48.
TODAY, I PRESENT YOU WITH HB 73.

HB 73 IS THE CULMINATION OF SEVERAL MONTHS' EFFORT BY
VARIOUS GROUPS INCLUDING THE P.S.C., THE STATE ASSOCIATION
OF THE GARBAGE CARRIERS AND THE CITIZENS OF LEWISTOWN.

I'LL NOT DWELL ON THE LEWISTOWN ISSUE AS OTHERS WILL TAKE
YOU THROUGH THAT ISSUE.

I WILL DIRECT MY REMARKS TO THE GARBAGE HAULING SITUATION
IN MONTANA.

SELDOM DO WE CONVENE THE STATE LEGISLATURE WITHOUT SEV-
ERAL BILLS ADDRESSING THE GARBAGE PROBLEM AND THIS YEAR
IS NO DIFFERENT. I HAD BARELY RECEIVED A COPY OF THIS
BILL IN NOVEMBER BEFORE I WAS MEETING WITH THE GARBAGE
HAULERS AND THEIR LEGAL STAFF, BOTH IN HELENA AND GREAT
FALLS AND I HAVE HAD PHONE CALLS FROM 7 OTHER COMMUNITIES
HOPING THIS BILL WOULD TAKE CARE OF THEIR SITUATION.

MONTANA HAS A UNIQUE POSITION IN THE 50 STATES. IF YOU
WILL LOOK AT THE STAPLED SHEETS, PAGES 100 AND 101, FROM
SEPTEMBER 1982, REPORT TO THE LEGISLATURE OR THE P.S.C.
SUNSET REPORT.

43 STATES DO NOT REGULATE GARBAGE CARRIERS.

6 STATES DO REGULATE ENTRY INTO THE FIELD AND REGUALTE
OPERATING TERRITORY, RATES AND SERVICE.

ONLY 1 - MONTANA - REGULATES ALL PHASES BUT RATES.

BY THIS ACTION, WE HAVE PLACED OUR P.S.C. IN THE DIFFICULT, ACTUALLY IMPOSSIBLE POSITION OF TRYING TO REGULATE GARBAGE ISSUES WITH LIMITED AUTHORITY.

IF YOU WILL READ THE LOWER PARAGRAPH ON PAGE 100, YOU WILL GAIN A CONCEPT OF THE PROBLEM.

WE ALL RECOGNIZE THAT EFFICIENCY AND LABOR EXPENSE REQUIRE THE CARRIERS TO HAVE A LARGE INVESTMENT IN EQUIPMENT AND FACILITIES AND THEY NATURALLY WOULD DESIRE AS MUCH PROTECTION AS THEY CAN OBTAIN. BUT THERE A POINT WHERE FREE ENTERPRISE MUST BE CONSIDERED.

NO ONE GUARANTEES A CAR DEALERSHIP, AN APPLIANCE STORE, A DEPARTMENT STORE OR ANY OTHER STORE A GUARANTEE AND THEY DON'T EXPECT IT. AT THIS POINT I WILL ASK YOU, MR. CHAIRMAN, TO CALL OTHER PROPONENTS AND OPPONENTS TO THE BILL BEFORE I CLOSE.

CLOSING

MR. CHAIRMAN, WE THINK THAT THIS BILL IS A GOOD COMMITTEE PROMISE REGARDING THE ISSUE.

WE CERTAINLY DO NOT WANT TO DISRUPT THE TOTAL PROCESS. WE ONLY WANT TO SATISFY OURS AND SEVERAL OTHER COMMUNITIES' SITUATION.

IT HAS THE APPROVAL OF THE P.S.C., THE STATE GARBAGE HAULERS AND THE LEWISTOWN PEOPLE.

THANK YOU.

PUBLIC SERVICE COMMISSION 1227 11th Avenue • Helena, Montana 59620
Telephone: (406) 449-3007 or 449-3008

Gordon E. Bollinger, Chairman
John B. Driscoll
Howard L. Ellis
Clyde Jarvis
Thomas J. Schneider

HOUSE BILL 186

STATEMENT OF SUPPORT BY THE MONTANA PUBLIC SERVICE COMMISSION

House Bill 186 proposes to allow local governments the same contracting rights as now possessed by the federal and state governments. Under existing statute, any carrier who has a contract for transporting any commodity for the United States government or a contract for the transportation for solid waste with any state agency can present that contract to the Public Service Commission and receive a certificate for the duration of the contract. This bill would allow local governments to also issue contracts for the transportation of solid waste and allow the PSC to issue a certificate based on that contract.

The Public Service Commission supports this legislation for the following reasons:

1. Review by two governmental bodies (local governments and the Public Service Commission) of the carriers ability to transport solid waste is both unnecessary and costly to the State of Montana. Once a local government entity (city, county, or district) has advertised for bids based upon their specifications and have awarded a contract for the transportation movement of solid waste, further review by the Public Service Commission is not only unnecessary, but may result in an overturning of the bid process based upon the present statutes, therefore resulting in a higher cost to the consumers in the area.

2. Local governments are in a much better position to monitor the service provided by the contractors and to take corrective action if they feel it is needed for the protection of the health and welfare of their constituents.

3. It should be noted that any certificate issued under this legislation will expire at the end of the contract period and that present carriers are protected under 7-13-4107 MCA which states that existing carriers must be given five years notice or paid fair market value for their equipment if the community elects to provide exclusive garbage or solid waste service.

HOUSE BILL 186 (cont.)

4. It should be pointed out that the Public Service Commission would still maintain, under this procedure, jurisdiction over insurance and vehicle safety and the PSC would assist local governments in all vehicle safety related matters.

Again let me state that it is the position of the Montana Public Service Commission that once a local government has advertised, accepted bids and made a decision on who to use to transport solid waste in their area, through the awarding of a contract, a presentation of that contract to the Commission should be enough evidence for the Commission to grant a certificate without further review by the PSC.

Montana Public Service Commission urges you to support House Bill 186 as a means of reducing the bureaucracy and review by two governmental agencies of a bonafide contract between a local government and a person who wishes to transport solid waste and to give to the local government the ability to decide which carriers would best serve their constituents.

Proposed Amendment to HB 73

1. Title, line 6.

Following: "COMMISSION"

Strike: "MUST"

Insert: "MAY"

2. Title, line 7.

Following: "CONSIDER"

Strike: remainder of line 7 through "AND" on line 8.

3. Page 1, line 20.

Following: "for a"

Strike: "remainder of line 20 through "C" on line 21.

4. Page 2, line 12.

Following: "(b)"

Strike: remainder of line 12 through line 18 in their entirety.

Insert: "For purposes of class D certificates, a determination of public convenience and necessity may include a consideration of competition."



MONTANA OPERATIONS MANUAL

MANAGEMENT MEMO

	VOL.	YEAR	NO.
MANAGEMENT MEMO NUMBER	1	82	3
DATE ISSUED	> 12-01-82		
DATE EFFECTIVE	> 12-01-82		

SUBJECT > PER DIEM RATES - "HIGH COST" CITIES

HB 4190

TO: All State Agencies

FROM: Morris Brusett, Director *MB*
Department of Administration

This memo updates the information contained in Management Memo 1-79-4D dated 05-01-82. Management Memo 1-79-4D should be removed from your manual and discarded.

Listed below are the cities the Department of Administration has designated as "high cost" in accordance with the selection procedures outlined in Management Memo 1-82-1.

<u>City</u>	<u>Date Effective</u>
Anchorage	May 1, 1982
Atlantic City	May 1, 1982
Boston	May 1, 1982
Bridgeport	December 1, 1982
Chicago	December 1, 1979
Dallas	May 1, 1982
Denver	February 1, 1981
Detroit	May 1, 1982
Houston	May 1, 1982
Los Angeles	May 1, 1982
Manhattan	December 1, 1982
Miami	December 1, 1982
Minneapolis	February 1, 1981
New Haven	May 1, 1982
New York	December 1, 1979
Newark	May 1, 1982
Philadelphia	December 1, 1982
Pittsburgh	December 1, 1982
Rochester	December 1, 1982
San Diego	May 1, 1982
San Francisco	December 1, 1979
Seattle	December 1, 1982
St. Louis	December 1, 1982
Washington, D.C.	December 1, 1979

Reimbursement for the actual cost of lodging is authorized for these cities. However, agencies are responsible for monitoring the costs associated with travel to designated areas and are encouraged to establish internal policies on the selection of appropriate lodging for such travel.

The next update of this Management Memo will be effective as of July 1, 1983. Questions should be directed to the Department of Administration, Accounting Division at 449-3092.

HB490

STATE OF MONTANA

**DEPARTMENT OF PROFESSIONAL AND
OCCUPATIONAL LICENSING**

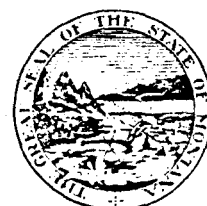
BOARD OF ARCHITECTS

**Report on the Need for State Regulation
of the Architectural Profession**

1978

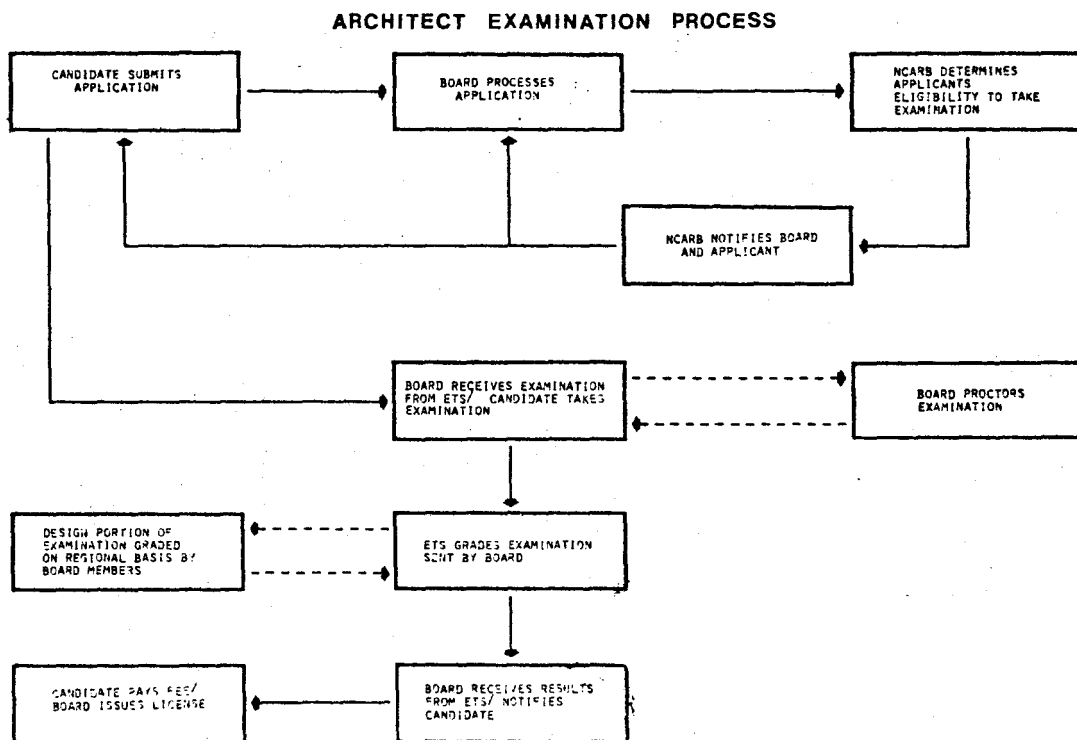
A SUNSET PERFORMANCE REVIEW

[Handwritten signature]



C-8490

Today, however, NCARB have simplified the board's operations considerably. As shown on Illustration 2-7, the examination process is handled primarily by NCARB through the participation of state board members. The administrative assistant assigned to the board by the Department of Professional and Occupational Licensing performs the majority of the clerical functions with the exception of two board members proctoring the examinations; one board member participating in the writing of the professional examination at the national level; one board member participating in the grading of the design portion



Source: Compiled by the Office of the Legislative Auditor.

Illustration 2-7

HB 490

of the qualifying examination at the regional level; and all board members signing the license once the candidate passes the examination.

When granting a Montana license by reciprocity to out-of-state architects who wish to practice in this state, the board again relies on NCARB services. Architects seeking a reciprocal license must present the board with a certificate issued by NCARB. This document informs the board that the architect meets all standards prescribed by NCARB for reciprocal licensure. Since the board has adopted the procedure of accepting the NCARB certificate as evidence of that person being qualified, no applications have been formally rejected.

One important criteria used for granting a license by reciprocity is to determine if the applicant is familiar with seismic design. In Montana, earthquakes occur and architects have to ensure that the buildings are being designed accordingly. Prior to 1965 the board required that each applicant be given an oral examination in the area of seismic forces. Currently, architects are tested on seismic design through the professional examination. For those out-of-state architects that have not been tested in this area, the board relies on evidence that the applicant has successfully completed an approved seminar on seismic design.

~~The trend toward greater use of NCARB's services in Montana by the board is logical.~~ Sixty percent of the architects licensed in Montana reside out-of-state. ~~By relying on NCARB to determine a candidate's eligibility to take the uniform examination and accepting only the NCARB certificate as evidence to~~

HB 490

practice in the state by reciprocity, the operations of the board have been streamlined. Consequently, involvement by individual board members is kept to a minimum and they are able to focus their attention on other board matters.

In summary, the Board of Architects was created in 1917 to regulate the architectural profession. The board licenses individual architects through an examination process. The examination used is prepared by the National Council of Architectural Registration Boards (NCARB) and adopted for use by the board. This process is also used by all other states. The Montana board is a member of NCARB. Board regulation of architects in Montana is totally funded through examination and license fees collected from members of the profession.

HB 490

closely with the board in revising its laws, rules, and regulations. Also the board has never proposed changes that were opposed by the Montana Chapter-AIA. We discussed earlier the recommendation made to the board by the Montana Chapter for amending the law to acquire design control over government buildings in the state.

PUBLIC PARTICIPATION

One indicator of regulation designed for public benefit would be the extent of public participation in board decisions. Scrutiny of board minutes from October 1971 to the present disclosed that no member of the general public has attended board meetings nor has the board sought public participation. We asked one board member if the general public was encouraged to participate at board meetings. The board member said while meetings are open to the public, the board has not actively encouraged public participation. In fact, board members questioned whether the public is even interested in the board's activities. For example, the board has advertised rule changes in major newspapers and only received comments from licensed architects. In order to increase citizen and press participation, the Department of Professional and Occupational Licensing submits a monthly informational list of planned public meetings to the Governor's office.

Sixty percent of the in-state architects surveyed expressed an opinion that the board would better serve the public by having its meetings at different locations throughout the state. A review of the board minutes revealed that the majority of meetings

AB 490

~~Montana law enacted in 1975 (Section 82-4226, R.C.M. 1947),~~
~~requires that "Legislative guidelines should be established to~~
~~secure to the people of Montana their constitutional right to be~~
~~afforded reasonable opportunity to participate in the operation~~
~~of governmental agencies prior to the final decision of the~~
~~agency." A related section of Montana law (Section 82-4228,~~
~~R.C.M. 1947), requires each agency to develop procedures for~~
~~allowing and encouraging public participation. In response to~~
~~these requirements of law, the director of the Department of~~
~~Professional and Occupational Licensing developed Public Par-~~
~~ticipation Rules. The director presented these rules in writing~~
~~to the board; however, the rules have not been adopted by the~~
~~board. The board believes that not all of the departmental rules~~
~~are applicable to the board. The matter was tabled pending the~~
~~outcome of the sunset review.~~

Board members expressed the view that they were under the impression that all meetings should be held in Helena as a consequence of executive reorganization.

Montana law enacted in 1975 (Section 82-4226, R.C.M. 1947), requires that "Legislative guidelines should be established to secure to the people of Montana their constitutional right to be afforded reasonable opportunity to participate in the operation of governmental agencies prior to the final decision of the agency." A related section of Montana law (Section 82-4228, R.C.M. 1947), requires each agency to develop procedures for allowing and encouraging public participation. In response to these requirements of law, the director of the Department of Professional and Occupational Licensing developed Public Participation Rules. The director presented these rules in writing to the board; however, the rules have not been adopted by the board. The board believes that not all of the departmental rules are applicable to the board. The matter was tabled pending the outcome of the sunset review.

As a means of furthering public participation, some states require that some members on regulatory boards be "public members" as contrasted to "professional members." In Montana, all members of the board must be experienced and licensed architects.

WITNESS STATEMENT

Name GEORGE C. PAGE Committee On B&I
Address GREAT FALLS, MT Date 2/1/83
Representing MT ST. Bd. OF ARCHITECTS Support ✓
Bill No. 490 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. SUNSET REVIEW - COMMENTS
2. PURPOSE OF PRACTICE ACT REGULATING
PRACTICE OF ARCHITECTURE
- 3.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name MARTY CRENNEN Committee On B & I
Address HELENA, MT Date 2-1-83
Representing SELF Support X
Bill No. HB 490 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

- Comments: *Summary of points in bill*
1. *Proposed definition of practice of architecture is more comprehensive by referring to "advanced knowledge" and omitting specific tasks.*
 2. *Public building definition omitted because there a multitude of buildings occupied by public that are excluded from coverage under the act.*
 3. *Exemptions: A six residential units conforms to high-priest used by most ci*
 4. *B. Owner exemption - bldgs frequented by public shall be covered under act. Many commercial persons now offering services.*
 5. *Voluntariness of business by out-of-state: Suggest that we allow out-of-state architects to register work without license, but require license to accept commission.*
 6. *Revocation or suspension - must charges are for consistent violating "licensing"*
 7. *Penalty for illegal practice raised to \$1000 max*
 8. *Rule-making authority - a more clear authorization of Board to adopt rules.*

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Ray Johnson Committee On SB 1
Address 415 So. Sanders, Helena Date 2-1-83
Representing Montana Chapter American Institute of Architects Support X
Bill No. HB 490 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: *The Sunset Review recommended strengthening our Act in regard to enforcement.*

1. *We feel that these proposed changes will be of great benefit in the enforcing of discipline against violators of this act as was suggested by the Sunset Review*
2. *that is people representing themselves as Architects or offering architectural services when they are not Architects. This bill be of benefit to the public in protecting their health & safety*
3. *The MCAA would recommend passage of HB 490*
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

NAME: Bill Romaine DATE: 2-1-83

ADDRESS: Helena

PHONE: 442-2220

REPRESENTING WHOM? Solid waste Contractors

APPEARING ON WHICH PROPOSAL: N.D. 186

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

PUBLIC SERVICE COMMISSION

1227 11th Avenue • Helena, Montana 59620
Telephone: (406) 449-3007 or 449-3008

Gordon E. Bollinger, Chairman
John B. Driscoll
Howard L. Ellis
Clyde Jarvis
Thomas J. Schneider

HOUSE BILL 73

STATEMENT OF SUPPORT BY THE MONTANA PUBLIC SERVICE COMMISSION

The Montana Public Service Commission supports the passage of House Bill 73 with the amendment proposed by Representative Schultz. The Commission feels that the Bill as amended is the most practical method of solving many of the problems which have been associated with the regulation of garbage carriers. Under the District Court's interpretation of the existing law, the Commission may not give weight to the benefits of competition when it considers a new application by a garbage carrier. This bill would allow the Commission to receive and consider testimony as to the need for competition in a given area. Without this bill such evidence could not be taken into consideration by the Commission in making its determination of the existence of public convenience and necessity. Therefore, the Commission supports the bill as amended as providing the Commission with a necessary tool in dealing with potentially harmful monopoly situations.

to do otherwise by the PSC. The PSC should monitor Class A and B service to assure motor carriers are fulfilling their obligations under granted authorities.

Garbage Carriers

Need for Regulation and Rate Control

Montana is one of seven states that regulate garbage carriers as shown by the following illustration.

OTHER STATES REGULATION OF GARBAGE CARRIERS

<u>Area of Regulation</u>	<u>Other States Regulating</u>		<u>Montana</u>
	<u>Yes</u>	<u>No</u>	
Entry	6	43	Yes
Operating Territory	6	43	Yes
Abandonment of Service	5	44	Yes
Rates	5*	44	No
Service	6	43	Yes

*One state requires filing of rates and can require change of an unreasonable rate.

Source: National Association of Regulatory Utility Commissioners

Illustration 33

The PSC presently regulates the areas to be served by (class D) garbage carriers, but is the only commission with no authority over carriers' rates. While there is service competition in some areas, we also found that there are a number of monopoly areas. During our review of authorities granted by the PSC, we found that there are at least 40 cities and 11 counties where the garbage carrier granted an authority by the PSC has a monopoly in that no other garbage carriers have authorization to serve that area.

In these monopoly areas, the consumers have only one choice for a garbage carrier. As a result, consumers have little or no

protection from carrier rate abuse due to the monopoly privilege granted by the state other than through complaints to the PSC regarding service or the option of hauling their own garbage.

There are two alternatives to the present situation. If the state is to continue regulating garbage carriers, the Legislature could consider legislation that will give the PSC authority to also regulate rates. Rate regulation would safeguard the consumer where there is little or no competition to keep rates at reasonable levels. The other alternative would be deregulation of the garbage carriers whereby services and rates would be decided by competition. The potential effect of deregulation on present garbage carriers, services, and rates is difficult to predict.

Local Government Garbage Contracts

State law presently allows the award of an authority to any carrier with a federal or state contract. No such provisions exist for municipal garbage contracts. Local governments have to contract with the lowest bidder with a PSC granted authority or a bidder who is able to obtain an authority after the bidding process. If the municipality does not want to pay the bid rate, it has to pay the authorized garbage carrier fair market value for his equipment or go into the garbage collection business. This problem has already forced some communities into the garbage collection business. The Legislature could consider giving the PSC authority to grant an authority to a carrier that obtains a municipal contract similar to the current provisions for federal and state contract holders.