

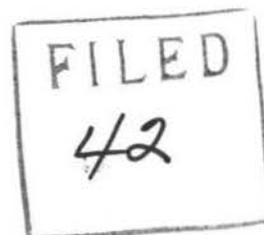
GARBAGE:  
WASTE DISPOSAL:  
CITIES, TOWNS & VILLAGES:

With respect to the Solid Waste Management Law, Senate Bill No. 387, 76th General Assembly [Sections 260.200-260.245, RSMo Supp. 1973], cities

and counties are required to provide for the collection and disposal of solid wastes including industrial wastes and may contract for such collection and disposal. Service charges may be imposed if not already imposed under some other law although such charges must be billed and collected directly by the cities or counties. General revenue of the city and federal revenue sharing funds may also be expended for such purposes.

OPINION NO. 42

February 8, 1974



Honorable J. H. Frappier  
Representative, District 56  
%House Post Office, Capitol Building  
Jefferson City, Missouri 65101

Dear Representative Frappier:

This opinion is in response to your questions relating to the Solid Waste Management Law, Senate Bill No. 387, 76th General Assembly, Second Regular Session (approved June 23, 1972) [Sections 260.200-260.245, RSMo Supp. 1973]. Your questions are stated as follows:

- (1) "Does Act 171, adopted at the 1972 regular session of the Missouri Legislature, relating to the management of solid wastes, require a city either to provide the service directly or to contract with an independent hauler to provide service to all residents, or does the law permit a city to enact regulations which would require residents to enter into contracts with a private hauler, without the city itself becoming a party to such contractual arrangement?"
- (2) "If the statute is construed as requiring the city to provide garbage and refuse collection service directly or by contract, is the city required to provide such service also to commercial and industrial establishments?"
- (3) "Assuming the city were to enter into a contract with a hauler for the provision of

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such service, does the statute permit an arrangement whereby the contractor could bill customers directly?

(4) "Does the law permit the imposition of a separate service charge for collection service provided by the city?

(5) "Does the provision of an annual tax preclude the city from utilizing any other city funds (e.g., General Revenue, Federal Revenue Sharing Funds) for the purpose of carrying out its solid waste management program?"

Section 4.1 of the solid waste law directs that each city and county ". . . shall provide individually or collectively for the collection and disposal of solid wastes within its boundaries; . . ." (emphasis added).

Section 4.3 permits any city or county to ". . . adopt ordinances, rules, regulations, or standards for the storage, collection, transportation, processing or disposal of solid wastes which shall be in conformity with the rules and regulations adopted by the board for solid waste management systems. . . ." Section 4.4 permits any city or county to contract with any person or corporation, private or public, ". . . to carry out their responsibilities for the storage, collection, transportation, processing, or disposal of solid waste."

Therefore, in regard to your first question, it is our opinion that under the solid waste law a city must provide for the regular collection and disposal of solid wastes from all residents of the city. We believe that a city must either itself collect and dispose of all solid waste, or it must contract with some person, corporation or other governmental entity to do so. We do not believe that a city may discharge this responsibility for collection and disposal of all solid waste within its boundaries by merely adopting an ordinance requiring citizens to collect and properly dispose of their solid waste.

Section 1 of the solid waste law defines "solid waste" to mean:

". . . garbage, refuse and other discarded materials including, but not limited to solid and semi-solid waste materials resulting from industrial, commercial, agriculture, governmental and domestic activities, . . ."

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Therefore, with reference to your second question, we believe a city must provide for the collection and disposal of garbage, refuse, and other discarded materials from commercial and industrial establishments within its boundaries.

We understand your third question to inquire if a city may, in its contract with a person or company for the collection and disposal of solid waste, authorize the contractor to charge and collect in its own behalf a fee from the owners of all premises served by the contractor. Section 4.1 of the solid waste law authorizes cities and counties to levy and collect charges for collection and disposal services. We do not believe this would allow a city or county to authorize its contractor to levy and collect service charges or to authorize the contractor to establish debtor-creditor relationships with citizens receiving the services. Therefore, we do not believe the contractor for municipal solid waste collection and disposal can bill customers directly for the service.

Section 4.1 of the solid waste law authorizes cities and counties to levy and collect service charges and to levy an annual tax, after favorable public vote (Section 10), of not to exceed ten cents on the one hundred dollars assessed valuation, in order to operate solid waste management systems. The service charge or tax authorized by this law may not be levied if such a service charge or tax is levied pursuant to some other law. Therefore, in answer to your fourth question, it is our opinion that a city may impose a solid waste collection service charge apart from the special tax for solid waste collection so long as the city is not imposing a charge for this service under the authority of some other law.

Finally, in response to your fifth question, we believe that the imposition of the special tax authorized by the solid waste law does not preclude a city from expending its other revenues collected for general municipal purposes (Article X, Section 11 (a), 11(b), Constitution of Missouri) in furtherance of a municipal solid waste management system. We also believe that imposition of a special tax for solid waste collection would not interfere with the city's use of funds received by the city pursuant to the State and Local Fiscal Assistance Act of 1972, Public Law 92-512 for the purposes of its solid waste management system.

#### CONCLUSION

It is the opinion of this office that with respect to the Solid Waste Management Law, Senate Bill No. 387, 76th General Assembly [Sections 260.200-260.245, RSMo Supp. 1973], cities and counties are required to provide for the collection and disposal of solid wastes including industrial wastes and may contract for such collection and disposal. Service charges may be imposed if not already

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imposed under some other law although such charges must be billed and collected directly by the cities or counties. General revenue of the city and federal revenue sharing funds may also be expended for such purposes.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Louren R. Wood.

Yours very truly,

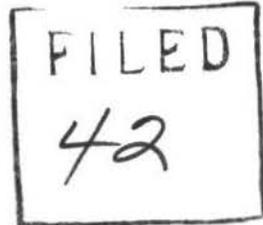
A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH  
Attorney General

March 20, 1974

ADDENDUM TO OPINION NO. 42

Honorable J. H. Frappier  
Representative, District 56  
Room 202J, Capitol Building  
Jefferson City, Missouri 65101



Dear Representative Frappier:

Since issuing our Opinion No. 42 dated February 8, 1974, to you, we have been advised that some confusion exists with respect to that part of the opinion dealing with the responsibility of the counties to provide for the collection and disposal of solid wastes, and whether private solid waste disposal services may continue to operate in unincorporated areas of the counties.

It should be clear that subsection 2 of Section 260.220 expressly provides that such county plan shall:

"(6) Allow private solid waste disposal services to continue to operate in unincorporated area [sic] of counties so long as such services are operated in a manner consistent with the policies and standards established under sections 260.200 to 260.245;"

Such private haulers who contract directly with their customers obviously have the right to charge and bill such customers directly.

The exception we have quoted merely permits private services to operate in unincorporated areas of the county but does not relieve the counties of the duty to furnish such services either directly or by contract in the absence of adequate private services.

Yours very truly,

JOHN C. DANFORTH  
Attorney General