

DRAFT

SUMMARY

Digest: This Act changes laws related to services for recycling and reuse. (Flesch Readability Score: 64.9).

Modifies provisions related to collection service and collection service franchises.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to recycling; amending ORS 459A.070 and 459A.085; and prescribing
3 an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 459A.085 is amended to read:

6 459A.085. (1) The Legislative Assembly finds that providing for collection
7 service including but not limited to the collection of recyclable material as
8 part of the opportunity to recycle is a matter of statewide concern.

9 (2) The exercise of the authority granted by this section is subject to ORS
10 221.735 and 459.085 (3).

11 (3) It is the intent of the Legislative Assembly that a city or county may
12 displace competition with a system of regulated collection service by issuing
13 franchises which, **subject to subsection (7)(b) of this section**, may be ex-
14 clusive if service areas are allocated. The city or county may recognize an
15 existing collection service. A city or county may award or renew a franchise
16 for collection service with or without bids or requests for proposals.

17 (4) In carrying out the authority granted by this section, a city or county
18 acts for and on behalf of the State of Oregon to carry out:

19 (a) The purposes of ORS 459.015;

1 (b) The requirements of ORS 459.005, 459.015, 459.035, 459.250, 459.992 (1)
2 and (2), 459.995 and 459A.005 to 459A.665;

3 (c) Waste reduction programs; and

4 (d) The state solid waste management plan.

5 (5) [*After October 15, 1983,*] A city or a county may continue, extend or
6 renew an existing franchise or grant a new franchise for collection service.
7 If a city or county, in furtherance of ORS 459.005 to 459.426, 459.705 to
8 459.790 and 459A.005 to 459A.665, has granted a collection service franchise
9 before October 15, 1983, it may treat the franchise as if adopted under this
10 section.

11 (6)(a) If a collection service franchise is continued, extended, renewed or
12 granted [*on or after October 15, 1983,*] the opportunity to recycle shall be
13 provided to a franchise holder's customers [*no later than July 1, 1986*]. This
14 subsection does not apply to that portion of the opportunity to recycle pro-
15 vided at or in connection with a disposal site under ORS 459.250.

16 (b) The opportunity to recycle may be provided by:

17 (A) The person holding the franchise;

18 (B) Another person who provides the opportunity to recycle to the fran-
19 chise holder's customers; or

20 (C) A person who is granted a separate franchise from the city or county
21 solely for the purpose of providing the opportunity to recycle.

22 (c) In determining who shall provide the opportunity to recycle, a city or
23 county shall first give due consideration to any person lawfully providing
24 recycling or collection service on June 1, 1983, if the person continues to
25 provide the service until the date the determination is made and the person
26 has not discontinued the service for a period of 90 days or more between
27 June 1, 1983, and the date the city or county makes the determination.

28 (7)(a) In granting a collection service franchise, the city or county may:

29 [(a)] (A) Prescribe the quality and character of and rates for collection
30 service and the minimum requirements to guarantee maintenance of service,
31 determine level of service, select persons to provide collection service and

1 establish a system to pay for collection service.

2 [(b)] (B) Divide the regulated area into service areas, grant franchises to
3 persons for collection service within the service areas and collect fees from
4 persons holding such franchises.

5 (b) **An exclusive franchise for collection service may not be used**
6 **as a basis for preventing another person from collecting materials for**
7 **reuse or recycling if collection of the materials is not included in the**
8 **services provided by the collection service franchise holder in the ap-**
9 **plicable service area.**

10 (8) The rates established under this section shall be just and reasonable
11 and adequate to provide necessary collection service. The rates established
12 by the city or county shall allow the person holding the franchise to recover
13 any additional costs of providing the opportunity to recycle at the minimum
14 level required by ORS 459.005, 459.015, 459.035, 459.250, 459.992 (1) and (2),
15 459.995 and 459A.005 to 459A.665 or at a higher level of recycling required
16 by or permitted by the city or county. The rates shall also allow the person
17 to recover the costs of education, promotion and notice of the opportunity
18 to recycle provided by a person holding a franchise.

19 (9) Instead of providing funding for the opportunity to recycle through
20 rates established pursuant to subsection (8) of this section, a city or county
21 may provide an alternative method of funding all or part of the opportunity
22 to recycle.

23 (10) In establishing service areas, the city or county shall consider:

24 (a) The policies contained in ORS 459.015;

25 (b) The requirements of ORS 459.250 and 459A.005 to 459A.665;

26 (c) Any applicable local or regional solid waste management plan ap-
27 proved by the Department of Environmental Quality;

28 (d) Any applicable waste reduction plan approved by the department; and

29 (e) The need to conserve energy, increase efficiency, provide the opportu-
30 nity to recycle, reduce truck traffic and improve safety.

31 (11) A city or county may further restrict competition by permitting one

1 or more collection service franchise holders to cooperate to provide the op-
2 portunity to recycle if the city or county finds that such cooperation will:

- 3 (a) Improve collection service efficiency;
- 4 (b) Guarantee an adequate volume of material to improve the feasibility
5 and effectiveness of recycling;
- 6 (c) Increase the stability of recycling markets; or
- 7 (d) Encourage joint marketing of materials or joint education and pro-
8 motion efforts.

9 (12) The provisions of this section are in addition to and not in lieu of
10 any other authority granted to a city or county. A city or county's exercise
11 of authority under this section is not intended to create any presumption
12 regarding an activity of the local government unit not addressed in this
13 section. This section shall not be construed to mean that it is the policy of
14 Oregon that other local government activities may not be exercised in a
15 manner that supplants or limits economic competition.

16 **SECTION 2.** ORS 459A.070 is amended to read:

17 459A.070. (1) A collection service or disposal site may charge a person
18 who source separates [*recyclable*] material and makes it available for reuse
19 or recycling less, but not more, for collection and disposal of solid waste and
20 collection of [*recyclable*] material **for reuse or recycling** than the collection
21 service charges a person who does not source separate [*recyclable*] material
22 **for reuse or recycling.**

23 (2) A collection service or disposal site may charge a person who does
24 not have solid waste collection service but who source separates recyclable
25 material and makes the material available for reuse or recycling, for the cost
26 of providing that service. In no case shall the charge be greater than the
27 charge to collect or dispose of that material as solid waste.

28 **SECTION 3.** **This 2024 Act takes effect on the 91st day after the date**
29 **on which the 2024 regular session of the Eighty-second Legislative**
30 **Assembly adjourns sine die.**

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