

By Senator Gutman

35-928-99

1 A bill to be entitled
 2 An act relating to solid waste; requiring local
 3 governments providing solid-waste-management
 4 services to be subject to the same requirements
 5 as private companies; providing for the
 6 applicability of the Florida Antitrust Act;
 7 providing procedures for the displacement of
 8 private solid-waste-management companies;
 9 amending s. 171.062, F.S.; providing for the
 10 disposition of solid-waste franchises or
 11 contracts in areas that are annexed; providing
 12 an effective date.

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 14 Be It Enacted by the Legislature of the State of Florida:

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 16 Section 1. Solid-waste-management services.--A
 17 municipality, county or other local government that provides
 18 solid-waste-management services must:

19 (1) Separately account for revenues, expenses,
 20 property, and source of investment dollars associated with the
 21 provision of the services;

22 (2) Comply, without exemption, with local requirements
 23 applicable to any private firm that provides
 24 solid-waste-management services.

25 Section 2. Exemptions from antitrust laws not
 26 applicable.--Notwithstanding any other law, a local government
 27 that provides solid-waste-management services outside its
 28 jurisdiction is not exempt from the provisions of chapter 542,
 29 Florida Statutes, relating to combinations restricting trade
 30 or commerce.

31 Section 3. Displacement of private waste companies.--

1 (1) A local government or combination of local
2 governments may not displace a private company that provides
3 garbage, trash, or refuse collection service without first:

4 (a) Holding at least one public hearing seeking
5 comment on the advisability of the locality or combination of
6 localities providing the service;

7 (b) Providing at least 45 days' written notice of the
8 hearing, delivered by first class mail to all private
9 companies that provide the service within the jurisdiction;
10 and

11 (c) Providing public notice of the hearing.

12 (2) Following the final public hearing held under
13 subsection (1) but not later than 1 year after the hearing,
14 the local government may proceed to take measures necessary to
15 provide the service. A local government shall provide 5 years
16 notice to a private company before it engages in the actual
17 provision of the service that displaces the company. As an
18 alternative to delaying displacement 5 years, a local
19 government may pay a displaced company an amount equal to the
20 company's preceding 12 months' gross receipts for the
21 displaced service in the displacement area. The 5-year period
22 shall lapse as to any private company being displaced when the
23 company ceases to provide service within the displacement
24 area.

25 (3) As used in this section, the term "displacement"
26 means a local government's provision of a service which
27 prohibits a private company from continuing to provide the
28 same service that it was providing when the decision to
29 displace was made. The term does not include:

30 (a) Competition between the public sector and private
31 companies for individual contracts;

1 (b) Actions by which a local government, at the end of
2 a contract with a private company, refuses to renew the
3 contract and either awards the contract to another private
4 company or, following a competitive process, decides for any
5 reason to provide the collection service itself;

6 (c) Actions taken against a private company because
7 the company has acted in a manner threatening to the public
8 health or safety or resulting in a substantial public
9 nuisance;

10 (d) Actions taken against a private company because
11 the company has materially breached its contract with the
12 local government;

13 (e) Refusal by a private company to continue
14 operations under the terms and conditions of its existing
15 agreement during the 5-year notice period;

16 (f) Entering into a contract with a private company to
17 provide garbage, trash or refuse collection which contract is
18 not entered into under an ordinance that displaces or
19 authorizes the displacement of another private company
20 providing garbage, trash, or refuse collection; or

21 (g) Situations in which at least 55 percent of the
22 property owners in the displacement area petition the
23 governing body to take over the collection service.

24 Section 4. Subsection (4) of section 171.062, Florida
25 Statutes, is amended to read:

26 171.062 Effects of annexations or contractions.--

27 (4)(a) A party that has a an exclusive franchise or
28 contract that ~~which~~ was in effect ~~for at least 6 months~~ prior
29 to the initiation of an annexation to provide solid waste
30 collection services in an unincorporated area may continue to
31 provide such services to an annexed area for 5 years or the

1 remainder of the franchise or contract term, whichever is
2 shorter, if:

3 1. The party franchisee provides, if the annexing
4 municipality requires, a level of quality and frequency of
5 service which is equivalent to that required by the
6 municipality in other areas of the municipality not served by
7 the party franchisee, and

8 2. The party franchisee provides such service to the
9 annexed area at a reasonable cost. The cost must include the
10 following as related to providing services to the annexed
11 area:

12 a. Capital costs for land, structures, vehicles,
13 equipment, and other items used for solid waste management;

14 b. Operating and maintenance costs for solid waste
15 management;

16 c. Costs to comply with applicable statutes, rules,
17 permit conditions, and insurance requirements;

18 d. Disposal costs; and

19 e. A reasonable profit.

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21 If the municipality and the party franchisee cannot enter
22 into an agreement as to such cost, they shall submit the
23 matter of cost to arbitration.

24 (b) A municipality, at its option, may allow the party
25 franchisee to continue providing services pursuant to the
26 existing ~~franchise~~ agreement.

27 (c) A municipality may terminate any franchise or
28 contract if the party franchisee does not agree to comply with
29 the requirements of paragraph (a) within 90 days after the
30 effective date of the proposed annexation.

31 Section 5. This act shall take effect October 1, 1999.

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SENATE SUMMARY

Provides for the regulation of solid-waste-management services provided by local governments and private companies.