

By Representative Garcia

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           providing a definition; providing exclusions;  
10          amending s. 171.062, F.S.; providing for the  
11          disposition of solid-waste franchises or  
12          contracts in areas that are annexed; providing  
13          an effective date.

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

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

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

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

26           (3) Provide solid-waste-management services to its  
27 customers without using other public monies to subsidize such  
28 services when in competition with private companies.

29           Section 2. Exemptions from antitrust laws not  
30 applicable.--Notwithstanding any other law, a local government  
31 that provides solid-waste-management services outside its

1 jurisdiction is not exempt from the provisions of chapter 542,  
2 Florida Statutes, relating to combinations restricting trade  
3 or commerce.

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

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

8 (a) Holding at least one public hearing seeking  
9 comment on the advisability of the locality or combination of  
10 localities providing the service;

11 (b) Providing at least 45 days' written notice of the  
12 hearing, delivered by first class mail to all private  
13 companies that provide the service within the jurisdiction;  
14 and

15 (c) Providing public notice of the hearing.

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

29 (3) As used in this section, the term "displacement"  
30 means a local government's provision of a service which  
31 prohibits a private company from continuing to provide the

1 same service that it was providing when the decision to  
2 displace was made. The term does not include:  
3 (a) Competition between the public sector and private  
4 companies for individual contracts;  
5 (b) Actions by which a local government, at the end of  
6 a contract with a private company, refuses to renew the  
7 contract and either awards the contract to another private  
8 company or, following a competitive process, decides for any  
9 reason to provide the collection service itself;  
10 (c) Actions taken against a private company because  
11 the company has acted in a manner threatening to the public  
12 health or safety or resulting in a substantial public  
13 nuisance;  
14 (d) Actions taken against a private company because  
15 the company has materially breached its contract with the  
16 local government;  
17 (e) Refusal by a private company to continue  
18 operations under the terms and conditions of its existing  
19 agreement during the 5-year notice period;  
20 (f) Entering into a contract with a private company to  
21 provide garbage, trash or refuse collection which contract is  
22 not entered into under an ordinance that displaces or  
23 authorizes the displacement of another private company  
24 providing garbage, trash, or refuse collection;  
25 (g) Situations in which at least 55 percent of the  
26 property owners in the displacement area petition the  
27 governing body to take over the collection service; or  
28 (h) Situations in which the private companies are  
29 licensed or permitted to do business within the local  
30 government for a limited time and such license or permit  
31 expires and is not renewed by the local government; however,

1 the local government shall have enacted its licensing or  
2 permitting process as of May 1, 1999, for this paragraph to  
3 apply. This paragraph does not apply to occupational licenses.

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

6 171.062 Effects of annexations or contractions.--

7 (4)(a) A party that has a a ~~an exclusive~~ franchise or  
8 contract that ~~which~~ was in effect ~~for at least 6 months~~ prior  
9 to the initiation of an annexation to provide solid waste  
10 collection services in an unincorporated area may continue to  
11 provide such services to an annexed area for 5 years or the  
12 remainder of the franchise or contract term, whichever is  
13 shorter, if:

14 1. The party franchisee provides, if the annexing  
15 municipality requires, a level of quality and frequency of  
16 service which is equivalent to that required by the  
17 municipality in other areas of the municipality not served by  
18 the party franchisee, and

19 2. The party franchisee provides such service to the  
20 annexed area at a reasonable cost. The cost must include the  
21 following as related to providing services to the annexed  
22 area:

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

25 b. Operating and maintenance costs for solid waste  
26 management;

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

29 d. Disposal costs; and

30 e. A reasonable profit.

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1 If the municipality and the party ~~franchisee~~ cannot enter  
2 into an agreement as to such cost, they shall submit the  
3 matter of cost to arbitration.

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

7 (c) A municipality may terminate any franchise or  
8 contract if the party ~~franchisee~~ does not agree to comply with  
9 the requirements of paragraph (a) within 90 days after the  
10 effective date of the proposed annexation.

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

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LEGISLATIVE SUMMARY

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