

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 exceptions;
 6 providing requirements for a local government
 7 providing solid-waste-management services
 8 outside its jurisdiction; providing procedures
 9 for the displacement of private
 10 solid-waste-management companies; amending s.
 11 165.061, F.S.; providing for the disposition of
 12 existing contracts for solid-waste-management
 13 services when a new municipality is
 14 incorporated; amending s. 171.062, F.S.;
 15 providing for the disposition of solid-waste
 16 franchises or contracts in areas that are
 17 annexed; providing an effective date.

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

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 21 Section 1. Solid-waste-management services in
 22 competition with private companies.--A municipality, county,
 23 or other local government that provides solid-waste-management
 24 services in competition with private companies must, with
 25 respect to the provision of the services:

26 (1) Separately account for revenues, expenses and
 27 depreciation, property, and source of investment funds
 28 associated with the provision of the services.

29 (2) Provide solid-waste-management services to its
 30 customers without using other public moneys, other than state
 31 awards or grants, including, but not limited to, state

1 recycling grants, innovative grants, and waste tire grants, to
2 subsidize these services.
3 (3) Comply with any local requirement, including the
4 requirement to pay any fee, specifically applicable to any
5 private company that provides solid-waste-management services
6 if the requirement gives the local government an advantage in
7 its ability to compete with a private company in terms of cost
8 or ability to promptly or efficiently provide the services.
9 (4) As used in this section, the term:
10 (a) "Solid-waste-managment services" means the process
11 by which solid waste is collected, transported, stored,
12 separated, processed, recycled, or disposed of in any way. The
13 term does not include services relating to recovered materials
14 as defined in section 403.703, Florida Statutes.
15 (b) "Source of investment funds" means the fund or
16 funds from which the money used to provide the solid waste
17 services is derived or expended.
18 (5) This section does not apply when the local
19 government:
20 (a) Provides the solid-waste-management services only
21 upon request and does not in any way seek to market these
22 services; or
23 (b) Is exclusively providing the
24 solid-waste-management services itself or under an exclusive
25 franchise.
26 (6) Subsection (1) does not apply in a fiscal year if,
27 at the beginning of that fiscal year, the local government is
28 exclusively providing the solid-waste-management services
29 itself.
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1 (7) Any person injured by reason of violation of this
2 section may sue therefor in circuit court and is entitled to
3 injunctive relief and to reasonable attorney's fees.

4 Section 2. Solid-waste-management services outside
5 jurisdiction.--

6 (1) A local government that provides
7 solid-waste-management services outside its jurisdiction in
8 competition with private companies must charge no less than
9 full cost for these services, and, upon request of an affected
10 person, must demonstrate that it is charging full cost for
11 these services.

12 (2) Any person injured by reason of violation of this
13 section or section 1 may sue therefor in circuit court and is
14 entitled to injunctive relief and to recover the damages and
15 the costs of the suit. The prevailing party is entitled to
16 recover reasonable attorney's fees.

17 (3) As used in this section, the term "full cost"
18 includes all direct and indirect costs, including
19 depreciation, associated with the provision of the
20 solid-waste-management services.

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

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

27 (a) Competition between the public sector and private
28 companies for individual contracts;

29 (b) Actions by which a local government, at the
30 conclusion of a contract with a private company, refuses to
31 renew the contract and either awards the contract to another

1 private company or, following a competitive process, decides
2 for any reason to provide the collection service itself;
3 (c) Actions taken against a private company because
4 the company has acted in a manner threatening to the public
5 health or safety or resulting in a substantial public
6 nuisance;
7 (d) Actions taken against a private company because
8 the company has materially breached its contract with the
9 local government;
10 (e) Refusal by a private company to continue
11 operations under the terms and conditions of its existing
12 agreement during the 5-year notice period;
13 (f) Entering into a contract with a private company to
14 provide garbage, trash, or refuse collection which contract is
15 not entered into under an ordinance that displaces or
16 authorizes the displacement of another private company
17 providing garbage, trash, or refuse collection;
18 (g) Situations in which at least 55 percent of the
19 property owners in the displacement area petition the
20 governing body to take over the collection service;
21 (h) Situations in which the private companies are
22 licensed or permitted to do business within the local
23 government for a limited time and such license or permit
24 expires and is not renewed by the local government; however,
25 the local government must have enacted its licensing or
26 permitting process as of May 1, 1999, for this paragraph to
27 apply. This paragraph does not apply to occupational licenses;
28 or
29 (i) Annexations, to the extent that section
30 171.062(4), Florida Statutes, applies.
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1 (2) 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 local government or
6 combination of local governments 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 (3) Following the final public hearing held under
13 subsection (2) 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 must 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 for 5 years, a local
19 government may pay a displaced company an amount equal to the
20 company's preceding 18 months' gross receipts for the
21 displaced service in the displacement area. The 5-year notice
22 period lapses as to any private company being displaced when
23 the company ceases to provide service within the displacement
24 area. This subsection does not prohibit the local government
25 and the company from voluntarily negotiating a different
26 notice period or amount of compensation.

27 Section 4. Paragraph (d) is added to subsection (2) of
28 section 165.061, Florida Statutes, to read:

29 165.061 Standards for incorporation, merger, and
30 dissolution.--

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1 (2) The incorporation of a new municipality through
2 merger of existing municipalities and associated
3 unincorporated areas must meet the following conditions:

4 (d) In accordance with s. 10 of Art. I of the State
5 Constitution, the plan for merger or incorporation must honor
6 existing contracts for solid-waste-management services in the
7 affected geographic area subject to merger or incorporation.
8 However, the plan for merger or incorporation may provide that
9 existing contracts for solid-waste-management services need be
10 honored only for 5 years or the remainder of the contract
11 term, whichever is shorter.

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

14 171.062 Effects of annexations or contractions.--

15 (4)(a) A party that has a an~~exclusive~~ franchise or
16 contract that ~~which~~ was in effect for at least 6 months prior
17 to the initiation of an annexation to provide solid waste
18 collection services in an unincorporated area may continue to
19 provide such services to an annexed area for 5 years or the
20 remainder of the franchise or contract term, whichever is
21 shorter, if:

22 1. The party franchisee provides, if the annexing
23 municipality requires, a level of quality and frequency of
24 service which is equivalent to that required by the
25 municipality in other areas of the municipality not served by
26 the party franchisee, and

27 2. The party franchisee provides such service to the
28 annexed area at a reasonable cost. The cost must include the
29 following as related to providing services to the annexed
30 area:

- 1 a. Capital costs for land, structures, vehicles,
- 2 equipment, and other items used for solid waste management;
- 3 b. Operating and maintenance costs for solid waste
- 4 management;
- 5 c. Costs to comply with applicable statutes, rules,
- 6 permit conditions, and insurance requirements;
- 7 d. Disposal costs; and
- 8 e. A reasonable profit.
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10 If the municipality and the party franchisee cannot enter into
11 an agreement as to such cost, they shall submit the matter of
12 cost to arbitration.

13 3. The party provides the annexing municipality with a
14 copy of the contract within a reasonable time following a
15 written request to do so.

16 (b) A municipality, at its option, may allow the party
17 franchisee to continue providing services pursuant to the
18 existing franchise agreement.

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

23 Section 6. This act shall take effect October 1, 2000.

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LEGISLATIVE SUMMARY

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

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