

1                   A bill to be entitled  
2           An act relating to governmental operations;  
3           providing requirements for local governments  
4           providing solid waste collection services in  
5           competition with private companies; providing  
6           remedies for such private companies; providing  
7           procedures and requirements; providing for  
8           award of damages, costs, and attorney fees;  
9           providing application; providing limitations  
10          for local government solid waste collection  
11          services outside the jurisdiction of the local  
12          government; providing remedies for certain  
13          injured parties; providing requirements and  
14          procedures; prohibiting local governments from  
15          displacing private waste collection companies  
16          under certain circumstances; providing  
17          requirements; providing procedures and  
18          requirements for such displacement; providing  
19          definitions; amending s. 171.062, F.S.;  
20          providing for continuation of certain solid  
21          waste services in certain annexed areas;  
22          providing an exception; amending s. 165.061,  
23          F.S.; providing for certain merger plans to  
24          honor certain solid waste contracts; providing  
25          limitations; amending s. 403.087, F.S.;  
26          clarifying application of certain permit fees;  
27          amending s. 403.706, F.S.; authorizing counties  
28          and municipalities to grant certain solid waste  
29          fee waivers under certain circumstances;  
30          amending s. 403.722, F.S.; clarifying  
31          requirements for obtaining certain hazardous

1 waste facility permits; creating s. 171.093,  
 2 F.S.; providing for the assumption of an  
 3 independent special district's service  
 4 responsibilities in an area that is within the  
 5 district's boundaries and that is annexed by a  
 6 municipality; providing that the municipality  
 7 may elect to assume such responsibilities;  
 8 providing for an interlocal agreement regarding  
 9 the transfer of such responsibilities;  
 10 providing for the provision of services and  
 11 payment therefor during a specified period if  
 12 the municipality and district are unable to  
 13 enter into an interlocal agreement; specifying  
 14 effect of a municipality's election not to  
 15 assume such responsibilities; providing for  
 16 contraction of the district's boundaries if the  
 17 municipality elects to assume such  
 18 responsibilities; providing for levy of ad  
 19 valorem taxes and assessments, user charges,  
 20 and impact fees; providing exceptions;  
 21 repealing s. 403.7165(5), F.S., relating to the  
 22 Applications Demonstration Center for Resource  
 23 Recovery from Solid Organic Materials;  
 24 repealing s. 403.7199, F.S., relating to the  
 25 Florida Packaging Council; providing an  
 26 effective date.

27  
 28 Be It Enacted by the Legislature of the State of Florida:

29  
 30 Section 1. (1) SOLID WASTE COLLECTION SERVICES IN  
 31 COMPETITION WITH PRIVATE COMPANIES.--

1           (a) A local government that provides specific solid  
2 waste collection services in direct competition with a private  
3 company:

4           1. Shall comply with the provisions of local  
5 environmental, health, and safety standards that also are  
6 applicable to a private company providing such collection  
7 services in competition with the local government.

8           2. Shall not enact or enforce any license, permit,  
9 registration procedure, or associated fee that:

10           a. Does not apply to the local government and for  
11 which there is not a substantially similar requirement that  
12 applies to the local government; and

13           b. Provides the local government with a material  
14 advantage in its ability to compete with a private company in  
15 terms of cost or ability to promptly or efficiently provide  
16 such collection services. Nothing in this sub-subparagraph  
17 shall apply to any zoning, land use, or comprehensive plan  
18 requirement.

19           (b)1. A private company with which a local government  
20 is in competition may bring an action to enjoin a violation of  
21 paragraph (a) against any local government. No injunctive  
22 relief shall be granted if the official action which forms the  
23 basis for the suit bears a reasonable relationship to the  
24 health, safety, or welfare of the citizens of the local  
25 government unless the court finds that the actual or potential  
26 anticompetitive effects outweigh the public benefits of the  
27 challenged action.

28           2. As a condition precedent to the institution of an  
29 action pursuant to this paragraph, the complaining party shall  
30 first file with the local government a notice referencing this  
31 paragraph and setting forth the specific facts upon which the

1 complaint is based and the manner in which the complaining  
 2 party is affected. The complaining party may provide evidence  
 3 to substantiate the claims made in the complaint. Within 30  
 4 days after receipt of such a complaint, the local government  
 5 shall respond in writing to the complaining party explaining  
 6 the corrective action taken, if any. If no response is  
 7 received within 30 days or if appropriate corrective action is  
 8 not taken within a reasonable time, the complaining party may  
 9 institute the judicial proceedings authorized in this  
 10 paragraph. However, failure to comply with this subparagraph  
 11 shall not bar an action for a temporary restraining order to  
 12 prevent immediate and irreparable harm from the conduct or  
 13 activity complained of.

14 3. The court may, in its discretion, award to the  
 15 prevailing party or parties costs and reasonable attorneys'  
 16 fees.

17 (c) This subsection does not apply when the local  
 18 government is exclusively providing the specific solid waste  
 19 collection services itself or pursuant to an exclusive  
 20 franchise.

21 (2) SOLID WASTE COLLECTION SERVICES OUTSIDE  
 22 JURISDICTION.--

23 (a) Notwithstanding s. 542.235, Florida Statutes, or  
 24 any other provision of law, a local government that provides  
 25 solid waste collection services outside its jurisdiction in  
 26 direct competition with private companies is subject to the  
 27 same prohibitions against predatory pricing applicable to  
 28 private companies under ss. 542.18 and 542.19.

29 (b) Any person injured by reason of violation of this  
 30 subsection may sue therefor in the circuit courts of this  
 31 state and shall be entitled to injunctive relief and to

1 recover the damages and the costs of suit. The court may, in  
2 its discretion, award to the prevailing party or parties  
3 reasonable attorneys' fees. An action for damages under this  
4 subsection must be commenced within 4 years. No person may  
5 obtain injunctive relief or recover damages under this  
6 subsection for any injury that results from actions taken by a  
7 local government in direct response to a natural disaster or  
8 similar occurrence for which an emergency is declared by  
9 executive order or proclamation of the Governor pursuant to s.  
10 252.36, Florida Statutes, or for which such a declaration  
11 might be reasonably anticipated within the area covered by  
12 such executive order or proclamation.

13 (c) As a condition precedent to the institution of an  
14 action pursuant to this subsection, the complaining party  
15 shall first file with the local government a notice  
16 referencing this subsection and setting forth the specific  
17 facts upon which the complaint is based and the manner in  
18 which the complaining party is affected. Within 30 days after  
19 receipt of such complaint, the local government shall respond  
20 in writing to the complaining party explaining the corrective  
21 action taken, if any. If the local government denies that it  
22 has engaged in conduct that is prohibited by this subsection,  
23 its response shall include an explanation showing why the  
24 conduct complained of does not constitute predatory pricing.

25 (d) For the purposes of this subsection, the  
26 jurisdiction of a county, special district, or solid waste  
27 authority shall include all incorporated and unincorporated  
28 areas within the county, special district, or solid waste  
29 authority.

30 (3) DISPLACEMENT OF PRIVATE WASTE COMPANIES.--  
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1           (a) As used in this subsection, the term  
2 "displacement" means a local government's provision of a  
3 collection service which prohibits a private company from  
4 continuing to provide the same service that it was providing  
5 when the decision to displace was made. The term does not  
6 include:  
7           1. Competition between the public sector and private  
8 companies for individual contracts;  
9           2. Actions by which a local government, at the end of  
10 a contract with a private company, refuses to renew the  
11 contract and either awards the contract to another private  
12 company or decides for any reason to provide the collection  
13 service itself;  
14           3. Actions taken against a private company because the  
15 company has acted in a manner threatening to the public health  
16 or safety or resulting in a substantial public nuisance;  
17           4. Actions taken against a private company because the  
18 company has materially breached its contract with the local  
19 government;  
20           5. Refusal by a private company to continue operations  
21 under the terms and conditions of its existing agreement  
22 during the 3-year notice period;  
23           6. Entering into a contract with a private company to  
24 provide garbage, trash, or refuse collection which contract is  
25 not entered into under an ordinance that displaces or  
26 authorizes the displacement of another private company  
27 providing garbage, trash, or refuse collection;  
28           7. Situations in which a majority of the property  
29 owners in the displacement area petition the governing body to  
30 take over the collection service;  
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1           8. Situations in which the private companies are  
2 licensed or permitted to do business within the local  
3 government for a limited time and such license or permit  
4 expires and is not renewed by the local government. This  
5 subparagraph does not apply to licensing or permitting  
6 processes enacted after May 1, 1999, or to occupational  
7 licenses; or

8           9. Annexations, to the extent that the provisions of  
9 s. 171.062(4), Florida Statutes, apply.

10           (b) A local government or combination of local  
11 governments may not displace a private company that provides  
12 garbage, trash, or refuse collection service without first:

13           1. Holding at least one public hearing seeking comment  
14 on the advisability of the local government or combination of  
15 local governments providing the service.

16           2. Providing at least 45 days' written notice of the  
17 hearing, delivered by first-class mail to all private  
18 companies that provide the service within the jurisdiction.

19           3. Providing public notice of the hearing.

20           (c) Following the final public hearing held under  
21 paragraph (b), but not later than 1 year after the hearing,  
22 the local government may proceed to take those measures  
23 necessary to provide the service. A local government shall  
24 provide 3 years' notice to a private company before it engages  
25 in the actual provision of the service that displaces the  
26 company. As an alternative to delaying displacement 3 years,  
27 a local government may pay a displaced company an amount equal  
28 to the company's preceding 15 months' gross receipts for the  
29 displaced service in the displacement area. The 3-year notice  
30 period shall lapse as to any private company being displaced  
31 when the company ceases to provide service within the

1 displacement area. Nothing in this paragraph prohibits the  
2 local government and the company from voluntarily negotiating  
3 a different notice period or amount of compensation.

4 (4) DEFINITIONS.--As used in this section:

5 (a) "In competition" or "in direct competition" means  
6 the vying between a local government and a private company to  
7 provide substantially similar solid waste collection services  
8 to the same customer.

9 (b) "Private company" means any entity other than a  
10 local government or other unit of government that provides  
11 solid waste collection services.

12 Section 2. Subsection (5) is added to section 171.062,  
13 Florida Statutes, to read:

14 171.062 Effects of annexations or contractions.--

15 (5) A party that has a contract that was in effect for  
16 at least 6 months prior to the initiation of an annexation to  
17 provide solid waste collection services in an unincorporated  
18 area may continue to provide such services to an annexed area  
19 for 5 years or the remainder of the contract term, whichever  
20 is shorter. Within a reasonable time following a written  
21 request to do so, the party shall provide the annexing  
22 municipality with a copy of the pertinent portion of the  
23 contract or other written evidence showing the duration of the  
24 contract, excluding any automatic renewals or so-called  
25 "evergreen" provisions. This subsection does not apply to  
26 contracts to provide solid waste collection services to  
27 single-family residential properties in those enclaves  
28 described in s. 171.046.

29 Section 3. Paragraph (d) is added to subsection (2) of  
30 section 165.061, Florida Statutes, to read:

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1           165.061 Standards for incorporation, merger, and  
2 dissolution.--

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

6           (d) In accordance with s. 10, Art. I of the State  
7 Constitution, the plan for merger or incorporation must honor  
8 existing solid waste contracts in the affected geographic area  
9 subject to merger or incorporation; however, the plan for  
10 merger or incorporation may provide that existing contracts  
11 for solid waste collection services shall be honored only for  
12 5 years or the remainder of the contract term, whichever is  
13 shorter, and may require that a copy of the pertinent portion  
14 of the contract or other written evidence of the duration of  
15 the contract, excluding any automatic renewals or so-called  
16 "evergreen" provisions, be provided to the municipality within  
17 a reasonable time following a written request to do so.

18           Section 4. Paragraph (a) of subsection (6) of section  
19 403.087, Florida Statutes, is amended to read:

20           403.087 Permits; general issuance; denial; revocation;  
21 prohibition; penalty.--

22           (6)(a) The department shall require a processing fee  
23 in an amount sufficient, to the greatest extent possible, to  
24 cover the costs of reviewing and acting upon any application  
25 for a permit or request for site-specific alternative criteria  
26 or for an exemption from water quality criteria and to cover  
27 the costs of surveillance and other field services and related  
28 support activities associated with any permit or plan approval  
29 issued pursuant to this chapter. However, when an application  
30 is received without the required fee, the department shall  
31 acknowledge receipt of the application and shall immediately

1 return the unprocessed application to the applicant and shall  
2 take no further action until the application is received with  
3 the appropriate fee. The department shall adopt a schedule of  
4 fees by rule, subject to the following limitations:

5 1. The ~~permit~~ fee for any of the following ~~permits~~ may  
6 not exceed \$32,500:

- 7 a. Hazardous waste, construction permit.
- 8 b. Hazardous waste, operation permit.
- 9 c. Hazardous waste, postclosure ~~closure~~ permit, or  
10 clean closure plan approval.

11 2. The permit fee for a Class I injection well  
12 construction permit may not exceed \$12,500.

13 3. The permit fee for any of the following permits may  
14 not exceed \$10,000:

- 15 a. Solid waste, construction permit.
- 16 b. Solid waste, operation permit.
- 17 c. Class I injection well, operation permit.

18 4. The permit fee for any of the following permits may  
19 not exceed \$7,500:

- 20 a. Air pollution, construction permit.
- 21 b. Solid waste, closure permit.
- 22 c. Drinking water, construction or operation permit.
- 23 d. Domestic waste residuals, construction or operation  
24 permit.

- 25 e. Industrial waste, operation permit.
- 26 f. Industrial waste, construction permit.

27 5. The permit fee for any of the following permits may  
28 not exceed \$5,000:

- 29 a. Domestic waste, operation permit.
- 30 b. Domestic waste, construction permit.

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1           6. The permit fee for any of the following permits may  
2 not exceed \$4,000:

3           a. Wetlands resource management--(dredge and fill),  
4 standard form permit.

5           b. Hazardous waste, research and development permit.

6           c. Air pollution, operation permit, for sources not  
7 subject to s. 403.0872.

8           d. Class III injection well, construction, operation,  
9 or abandonment permits.

10          7. The permit fee for Class V injection wells,  
11 construction, operation, and abandonment permits may not  
12 exceed \$750.

13          8. The permit fee for any of the following permits may  
14 not exceed \$500:

15           a. Domestic waste, collection system permits.

16           b. Wetlands resource management--(dredge and fill and  
17 mangrove alterations), short permit form.

18           c. Drinking water, distribution system permit.

19          9. The permit fee for stormwater operation permits may  
20 not exceed \$100.

21          10. The general permit fees for permits that require  
22 certification by a registered professional engineer or  
23 professional geologist may not exceed \$500. The general  
24 permit fee for other permit types may not exceed \$100.

25          11. The fee for a permit issued pursuant to s. 403.816  
26 is \$5,000, and the fee for any modification of such permit  
27 requested by the applicant is \$1,000.

28          12. The regulatory program and surveillance fees for  
29 facilities permitted pursuant to s. 403.088 or s. 403.0885, or  
30 for facilities permitted pursuant to s. 402 of the Clean Water  
31 Act, as amended, 33 U.S.C. ss. 1251 et seq., and for which the

1 department has been granted administrative authority, shall be  
2 limited as follows:

3 a. The fees for domestic wastewater facilities shall  
4 not exceed \$7,500 annually. The department shall establish a  
5 sliding scale of fees based on the permitted capacity and  
6 shall ensure smaller domestic waste dischargers do not bear an  
7 inordinate share of costs of the program.

8 b. The annual fees for industrial waste facilities  
9 shall not exceed \$11,500. The department shall establish a  
10 sliding scale of fees based upon the volume, concentration, or  
11 nature of the industrial waste discharge and shall ensure  
12 smaller industrial waste dischargers do not bear an inordinate  
13 share of costs of the program.

14 c. The department may establish a fee, not to exceed  
15 the amounts in subparagraphs 4. and 5., to cover additional  
16 costs of review required for permit modification or  
17 construction engineering plans.

18 Section 5. Paragraph (d) is added to subsection (17)  
19 of section 403.706, Florida Statutes, to read:

20 403.706 Local government solid waste  
21 responsibilities.--

22 (17) To effect the purposes of this part, counties and  
23 municipalities are authorized, in addition to other powers  
24 granted pursuant to this part:

25 (d) To grant a solid waste fee waiver to nonprofit  
26 organizations that are engaged in the collection of donated  
27 goods for charitable purposes and that have a recycling or  
28 reuse rate of 50 percent or better.

29 Section 6. Subsection (1) of section 403.722, Florida  
30 Statutes, is amended to read:

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1           403.722 Permits; hazardous waste disposal, storage,  
2 and treatment facilities.--

3           (1) Each person who intends to construct, modify,  
4 operate, or close a hazardous waste disposal, storage, or  
5 treatment facility shall obtain a construction permit,  
6 operation permit, postclosure ~~or closure~~ permit, or clean  
7 closure plan approval from the department prior to  
8 constructing, modifying, operating, or closing the facility.  
9 By rule, the department may provide for the issuance of a  
10 single permit instead of any two or more hazardous waste  
11 facility permits.

12           Section 7. Section 171.093, Florida Statutes, is  
13 created to read:

14           171.093 Municipal annexation within independent  
15 special districts.--

16           (1) The purpose of this section is to provide an  
17 orderly transition of special district service  
18 responsibilities in an annexed area from an independent  
19 special district which levies ad valorem taxes to a  
20 municipality following the municipality's annexation of  
21 property located within the jurisdictional boundaries of an  
22 independent special district, if the municipality elects to  
23 assume such responsibilities.

24           (2) The municipality may make such an election by  
25 adopting a resolution evidencing the election and forwarding  
26 the resolution to the office of the special district and the  
27 property appraiser and tax collector of the county in which  
28 the annexed property is located. In addition, the municipality  
29 may incorporate its election into the annexation ordinance.

30           (3) Upon a municipality's election to assume the  
31 district's responsibilities, the municipality and the district

1 may enter into an interlocal agreement addressing the orderly  
2 transfer of service responsibilities, real assets, equipment,  
3 and personnel to the municipality. The agreement shall address  
4 allocation of responsibility for special district services,  
5 avoidance of double taxation of property owners for such  
6 services in the area of overlapping jurisdiction, prevention  
7 of loss of any district revenues which may be detrimental to  
8 the continued operations of the independent district,  
9 avoidance of impairment of existing district contracts,  
10 disposition of property and equipment of the independent  
11 district and any assumption of indebtedness for it, the status  
12 and employee rights of any adversely affected employees of the  
13 independent district, and any other matter reasonably related  
14 to the transfer of responsibilities.

15 (4)(a) If the municipality and the district are unable  
16 to enter into an interlocal agreement pursuant to subsection  
17 (3), the municipality shall so advise the district and the  
18 property appraiser and tax collector of the county in which  
19 the annexed property is located and, effective October 1 of  
20 the calendar year immediately following the calendar year in  
21 which the municipality declares its intent to assume service  
22 responsibilities in the annexed area, the district shall  
23 remain the service provider in the annexed area for a period  
24 of 4 years. During the 4-year period, the municipality shall  
25 pay the district an amount equal to the ad valorem taxes or  
26 assessments that would have been collected had the property  
27 remained in the district.

28 (b) By the end of the 4-year period, or any extension  
29 mutually agreed upon by the district the municipality, the  
30 municipality and the district shall enter into an agreement  
31 that identifies the existing district property located in the

1 municipality or primarily serving the municipality that will  
2 be assumed by the municipality, the fair market value of such  
3 property, and the manner of transfer of such property and any  
4 associated indebtedness. If the municipality and district are  
5 unable to agree to an equitable distribution of the district's  
6 property and indebtedness, the matter shall proceed to circuit  
7 court. In equitably distributing the district's property and  
8 associated indebtedness, the taxes and other revenues paid the  
9 district by or on behalf of the residents of the annexed area  
10 shall be taken into consideration.

11 (c) During the 4-year period, or during any mutually  
12 agreed upon extension, district service and capital  
13 expenditures within the annexed area shall continue to be  
14 rationally related to the annexed area's service needs.  
15 Service and capital expenditures within the annexed area shall  
16 also continue to be rationally related to the percentage of  
17 district revenue received on behalf of the residents of the  
18 annexed area when compared to the district's total revenue. A  
19 capital expenditure greater than \$25,000 shall not be made by  
20 the district for use primarily within the annexed area without  
21 the express consent of the municipality.

22 (5) If the municipality elects not to assume the  
23 district's responsibilities, the district shall remain the  
24 service provider in the annexed area, the geographical  
25 boundaries of the district shall continue to include the  
26 annexed area, and the district may continue to levy ad valorem  
27 taxes and assessments on the real property located within the  
28 annexed area. If the municipality elects to assume the  
29 district's responsibilities in accordance with subsection (3),  
30 the district's boundaries shall contract to exclude the

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1 annexed area at the time and in the manner provided in the  
2 agreement.

3 (6) If the municipality elects to assume the  
4 district's responsibilities and the municipality and the  
5 district are unable to enter into an interlocal agreement, and  
6 the district continues to remain the service provider in the  
7 annexed area in accordance with subsection (4), the  
8 geographical boundaries of the district shall contract to  
9 exclude the annexed area on the effective date of the  
10 beginning of the 4-year period provided for in subsection (4).  
11 Nothing in this section precludes the contraction of the  
12 boundary of any independent special district by special act of  
13 the Legislature. The district shall not levy ad valorem taxes  
14 or assessments on the annexed property in the calendar year in  
15 which its boundaries contract and subsequent years, but it may  
16 continue to collect and use all ad valorem taxes and  
17 assessments levied in prior years. Nothing in this section  
18 prohibits the district from assessing user charges and impact  
19 fees within the annexed area while it remains the service  
20 provider.

21 (7) In addition to any other authority provided by  
22 law, a municipality is authorized to levy assessments on  
23 property located in an annexed area to offset all or a portion  
24 of the costs incurred by the municipality in assuming district  
25 responsibilities pursuant to this section. Such assessments  
26 may be collected pursuant to and in accordance with applicable  
27 law.

28 (8) This section does not apply to districts created  
29 pursuant to chapter 190 or chapter 373.

30 Section 8. Subsection (5) of section 403.7165 and  
31 section 403.7199, Florida Statutes, are repealed.



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Section 9. This act shall take effect July 1, 2000.