

By Senator McKay

26-1262-00

See HB 967

1 A bill to be entitled
2 An act relating to Manatee County; authorizing
3 and empowering the Board of County
4 Commissioners of Manatee County to provide for
5 the collection and disposal of garden trash, to
6 impose monthly collection service charges on
7 all improved real property, and to grant
8 franchises therefor in unincorporated
9 communities; authorizing the board to prescribe
10 and collect fees therefor; authorizing the
11 board to adopt rules and regulations and create
12 districts for such purposes; revising
13 provisions relating to filing of applications
14 for franchises with the board; providing for
15 forfeitures, penalties, and violations;
16 requiring persons, firms, or corporations to
17 whom franchises are granted to give performance
18 bond; providing for manner and consideration
19 for granting franchises; repealing chapter
20 85-457, Laws of Florida, relating to the
21 collection and disposal of solid waste and
22 junk; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

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26 Section 1. Chapter 85-457, Laws of Florida, is amended
27 to read:

28 Section 1. Authority to adopt rules and
29 regulations.--The Board of County Commissioners of Manatee
30 County is authorized to adopt reasonable rules and
31 regulations, found to be necessary for the protection of

1 public health, covering the storage, collection,
2 transportation, and disposal of solid waste,and junk, and
3 garden trash. Any person, firm, or corporation violating any
4 of the provisions of said rules or regulations shall be deemed
5 guilty of a misdemeanor, and, upon conviction thereof, shall
6 be punished as otherwise provided by law.

7 Section 2. Franchises; generally.--

8 (1) For the purpose of promoting the health and
9 general welfare of the community ~~communities~~, as hereinafter
10 provided, the Board of County Commissioners of Manatee County,
11 is hereby authorized and empowered to provide for the
12 collection and disposal of solid waste,and junk, and garden
13 trash and to grant franchises therefor ~~therefore~~ in such
14 districts in said county as may be designated by it lying
15 outside the boundaries of any municipality, to persons, firms,
16 or corporations ~~applying therefore~~, for the purpose of
17 collection, removal, and disposal of solid waste,and junk,
18 and garden trash in any such districts. The board of county
19 commissioners may designate and create districts in such size,
20 number, shape, or area as it may from time to time deem best
21 suited to carry out the purposes ~~purpose~~ of this act.

22 (2) The franchise may be exclusive or nonexclusive and
23 shall take effect after full ~~the final approval of a~~
24 ~~resolution granting the franchise and the~~ execution of a
25 franchise agreement, and may continue in force and effect for
26 a term stated in said agreement, not to exceed 15 years after
27 the effective date of the franchise agreement. The franchise
28 agreement may provide for renewal thereof for up to an
29 additional 15-year period following a full public hearing
30 during which the grantees' performance and all terms and
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1 conditions of the franchise agreement may be reviewed,
2 altered, or amended by the county.

3 Section 3. Petitions ~~Application petition~~; notice;
4 duty of county commission.--

5 (1) Upon the creation of any district or upon the
6 cancellation, expiration, or nonrenewal of any existing
7 franchise in any district, the board of county commissioners
8 shall cause to be published a notice in a newspaper of general
9 circulation in the county that petitions from interested
10 persons, firms, or corporations seeking to acquire a franchise
11 will be considered.

12 (2) The notice shall specify the area or district for
13 which the right, privilege, or franchise may be granted and
14 shall state whether the franchise sought shall be exclusive or
15 nonexclusive, what service is intended to be furnished, and
16 the period of time for which the franchise may be granted.

17 ~~(3) All applications to be considered must be filed~~
18 ~~with the board of county commissioners by filing with the~~
19 ~~circuit court clerk within 20 days following the publication~~
20 ~~of notice.~~

21 ~~(4) After the filing of such application with the~~
22 ~~board of county commissioners, the board shall consider the~~
23 ~~applications and grant or deny them.~~

24 Section 4. Granting; bond; bids; monthly payments by
25 grantee; disposition.--

26 (1) In the interest of fairness, prior to considering
27 the petitions ~~applications~~ filed, the board of county
28 commissioners shall establish legal, financial and technical
29 criteria and other criteria to be used in evaluating said
30 petitions ~~applications~~. All such criteria shall be uniformly
31 applied. Consideration may be given to those petitioners

1 ~~applicants~~ who have established records of satisfactory past
2 performance of franchise agreements. The county shall award
3 franchises pursuant to competitive bidding or competitive
4 negotiation or requests for proposals ~~proposal~~, or any other
5 arms-length negotiation or combination thereof, provided
6 however, that all activity under this section shall occur in
7 accordance with chapters 119 and 286, Florida Statutes.

8 (2) In the event the board of county commissioners
9 shall determine to grant such franchise, it shall do so on
10 such reasonable terms and conditions as it shall deem ~~consider~~
11 ~~for the best~~ for interest of the community. However, the
12 board shall require, prerequisite to or concurrently with the
13 granting of any such franchise, that the person, firm, or
14 corporation to whom such franchise is granted or awarded, give
15 a performance bond, in an amount to be fixed by said board and
16 payable to the Board of County Commissioners of Manatee County
17 and conditioned that such franchise, and franchise agreement,
18 and all the terms and provisions thereof including such rules
19 and regulations as may be promulgated by the board regulating
20 and controlling the collection and disposal of garbage in said
21 county, shall be performed and complied with.

22 (3) In those districts wherein more than one person,
23 firm, or corporation seeks to be awarded a franchise, the
24 ~~board shall be authorized to receive and accept bids from~~
25 ~~applicants who apply for franchise on areas which may be~~
26 ~~sought by more than one applicant and said board may accept~~
27 the bid which it deems to be in the best interest of the
28 county, or it may deny the same.

29 (4) In all franchises or grants given pursuant to the
30 provisions of this act, the board of county commissioners may
31 require as consideration for each, the payment by the

1 franchise holder to the county, in monthly installments of a
2 fee ~~such sum or sums~~ as it may deem reasonable, taking into
3 consideration the areas and population of the district for
4 which such franchise is granted, and all such fees ~~sums~~
5 collected shall be paid into the general fund of the county
6 and used and expended by the board without budgetary
7 appropriations, for the purposes of:

8 (a) Acquiring by purchase, lease or otherwise, solid
9 waste, junk, and garden trash ~~garbage~~ disposal facilities;

10 (b) Operating such disposal facilities;

11 (c) Enforcing the franchise agreements and the various
12 rules and regulations adopted pursuant to this act; or

13 (d) Any combination of the above ~~and the operations~~
14 ~~thereof, and for the regulation and enforcement of this law.~~

15 (5) The board may provide for payment and collection
16 of all fees to be made directly to the county by those served
17 and may provide in the franchise agreements for a method of
18 payment to the franchise holder for the services rendered
19 pursuant to the franchise grant.

20 (6) In the creation of districts,the action of the
21 board of county commissioners shall be expressed in a
22 resolution, by it adopted, which resolution shall contain a
23 description of the areas or district to be covered by the
24 franchise,~~whereupon~~ such described areas or districts shall
25 be deemed created as of the time fixed in such resolution.

26 Section 5. Services to be in accordance with
27 franchises, rules, etc.--After the creation of any such
28 district, the collection, removal, and disposal of solid
29 waste,~~and~~ junk, and garden trash therein shall be
30 accomplished only in accordance with the terms and provisions
31 of the franchise agreement and with such rules, regulations,

1 ~~and rates, and regulations~~ as the board of county
2 commissioners may from time to time promulgate and adopt.

3 Section 6. Forfeiture.--In the event the grantee of
4 any franchise obtained under this act (article), shall violate
5 any of the terms, conditions or provisions of such franchise
6 agreement, or shall violate any of the rules and regulations
7 promulgated by the board of county commissioners pursuant
8 thereto, and shall be in default thereof, after a 15-day
9 notice shall have been given by the chairman of the board of
10 county commissioners, to desist from such violations, then
11 such grantee shall be deemed to have forfeited said franchise
12 and the board may avail itself of any lawful remedies such
13 ~~forfeiture shall be declared by the judge of the circuit court~~
14 ~~for the county in which said franchise was given, in such~~
15 ~~manner and form as is now or may in the future be provided by~~
16 ~~law.~~

17 Section 7. Violations, penalty; presumption.--

18 (1) It shall be unlawful for any person, firm or
19 corporation to carry on the business of collection, removal,
20 or and disposal of solid waste, and junk, or garden trash in
21 any ~~built-up~~ area or district in said county as may be
22 designated by said board of county commissioners, without
23 first obtaining a franchise as authorized by this act
24 (article); and any such person, firm, or corporation violating
25 any of the provisions of this act (article) shall be deemed
26 guilty of a misdemeanor, and upon conviction thereof, shall
27 be punished, as otherwise provided by ~~general~~ law for
28 ~~conviction of a misdemeanor.~~

29 (2) The collection, removal, and disposal of more than
30 6 20-gallon cans of solid waste, and junk, or garden trash per
31 week by any person, firm, or corporation shall constitute,

1 prima facie evidence of carrying on said business, unless said
2 solid garbage, refuse, or waste or junk is the accumulation of
3 the ~~individual, residence, home, or~~ business of the person,
4 firm, corporation, or agent thereof, collecting, removing, or
5 disposing of the same, or garden trash ~~yard clippings~~ being
6 removed by a bona fide lawn service.

7 Section 8. Monthly collection charges; delinquent
8 payments.--

9 (1) The county may impose monthly collection service
10 charges for the collection of solid waste, and junk, and
11 garden trash on all improved real property within the
12 unincorporated county except as may be excluded by the county
13 by ordinance, resolution, or regulation.

14 (2) The occupancy or existence of any place of abode
15 or any place of business ~~by any person, firm, or corporation~~
16 shall be prima facie evidence that solid waste, and junk, and
17 garden trash is being produced and is accumulating upon such
18 premises and that service charges for the collection and
19 disposal thereof are due to the county.

20 (3) The county may provide by ordinance or resolution
21 for penalties for delinquent payments of collection service
22 charges and may further provide that in the event such
23 premises shall be served by the water, or sanitary sewer, or
24 reclaimed water systems ~~system~~ of the county, such services
25 may cease to such premises until after all delinquent charges
26 and penalties shall have been paid.

27 (4) The provisions of this section of this act shall
28 prevail over any inconsistent special or general law including
29 specifically the provisions contained in ~~SB 126 filed during~~
30 ~~the 1985 Legislative Session should such bill be enacted and~~
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1 ~~the contemplated new~~ section 125.485, Florida Statutes, ~~become~~
2 ~~law.~~

3 Section 9. Chapter 57-1552, Laws of Florida, as
4 amended by chapters 67-1672 and 67-1678, Laws of Florida, is
5 hereby repealed.

6 Section 10. The powers conferred by this act shall be
7 in addition and supplemental to the existing powers of the
8 county and shall not be construed as repealing any of the
9 provisions of any other laws, general, special, or local
10 except as herein provided.

11 Section 11. If any provision of this act or the
12 application thereof to any person or circumstance is held
13 invalid, the invalidity shall not affect other provisions or
14 applications of the act which can be given effect without the
15 invalid provision or application, and to this end the
16 provisions of this act are declared severable.

17 Section 12. It is the intent of this act to provide
18 the mechanisms to the Manatee County Board of County
19 Commissioners to enact such resolutions and ordinances as they
20 deem proper for the collection and disposal of solid waste,
21 and junk, and garden trash.

22 Section 2. This act shall take effect July 1, 2000.
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