

By Representative Ogles

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 85-457 ~~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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