

By Representative Needelman

1                                   A bill to be entitled  
2           An act relating to solid waste; amending s.  
3           165.061, F.S.; clarifying provisions relating  
4           to standards for incorporation, merger, and  
5           dissolution of local governments with regard to  
6           solid waste contracts; amending s. 403.706,  
7           F.S.; requiring materials recovery facilities  
8           and facilities that process construction and  
9           demolition debris to maintain certain records;  
10          providing an exception; amending s. 403.7063,  
11          F.S.; granting rights of enforcement to certain  
12          private companies with regard to solid waste  
13          franchise collection agreements; providing an  
14          effective date.

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

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18           Section 1. Paragraph (d) of subsection (2) of section  
19   165.061, Florida Statutes, is amended, and paragraph (f) is  
20   added to subsection (1) of said section, to read:

21           165.061 Standards for incorporation, merger, and  
22   dissolution.--

23           (1) The incorporation of a new municipality, other  
24   than through merger of existing municipalities, must meet the  
25   following conditions in the area proposed for incorporation:

26           (f) In accordance with s. 10, Art. I of the State  
27   Constitution, the plan for incorporation must honor existing  
28   solid waste contracts in the affected geographic area subject  
29   to incorporation; however, the plan for incorporation may  
30   provide that existing contracts for solid waste collection  
31   services shall be honored only for 5 years or the remainder of

1 the contract term, whichever is shorter, and may require that  
2 a copy of the pertinent portion of the contract or other  
3 written evidence of the duration of the contract, excluding  
4 any automatic renewals or so-called "evergreen" provisions, be  
5 provided to the municipality within a reasonable time  
6 following a written request to do so.

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

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

22 Section 2. Subsection (18) of section 403.706, Florida  
23 Statutes, is amended to read:

24 403.706 Local government solid waste  
25 responsibilities.--

26 (18)(a) Each operator of a solid waste management  
27 facility owned or operated by or on behalf of a county or  
28 municipality shall weigh all solid waste when it is received.  
29 The scale used to measure the solid waste shall conform to the  
30 requirements of chapter 531 and any rules promulgated  
31 thereunder.

1       (b) Any materials recovery facility and any facility  
2 at which construction and demolition debris is sorted,  
3 recovered, recycled, or processed for reuse or other purposes  
4 shall keep monthly records of the following information:

5           1. The total weight of materials received at the  
6 facility.

7           2. The total weight of materials recovered, recycled,  
8 or reused.

9           3. The total weight of materials not recovered,  
10 recycled, or reused.

11       (c) The department shall adopt by rule no later than  
12 October 1, 2001, the categories of materials for which records  
13 must be kept. The rule shall include, at a minimum, those  
14 materials set forth in s. 403.703(7) and (17). The facilities  
15 specified in paragraph (b) must also keep detailed records,  
16 including the name and location of the solid waste disposal  
17 facility at which material not recovered, recycled, or reused  
18 is ultimately disposed. Materials not recovered, recycled or  
19 reused that are contaminated by or commingled with either  
20 Class I waste or Class III waste, either before or after  
21 processing, shall be disposed of in either a Class I landfill  
22 or a Class III landfill, respectively.

23       (d) This section does not apply to a recovered  
24 materials processing facility. This section shall not alter or  
25 otherwise affect the list of recovered materials as set forth  
26 in s. 403.703(7) or the regulation of recovered materials as  
27 provided in s. 403.7046.

28       Section 3. Section 403.7063, Florida Statutes, is  
29 amended to read:

30       403.7063 Use of private services in solid waste  
31 management; enforcement.--

1           (1) In providing services or programs for solid waste  
2 management, local governments and state agencies should use  
3 the most cost-effective means for the provision of services  
4 and are encouraged to contract with private persons for any or  
5 all of such services or programs in order to assure that such  
6 services are provided on the most cost-effective basis.  
7 Notwithstanding any special or general law to the contrary, no  
8 county or municipality shall adopt or enforce regulations that  
9 discriminate against privately owned solid waste management  
10 facilities because they are privately owned. However, nothing  
11 in this section shall interfere with the county's or  
12 municipality's ability to control the flow of solid waste  
13 within its boundaries pursuant to this chapter.

14           (2) A private company that is a party to a solid waste  
15 collection franchise agreement shall have the right to enforce  
16 that agreement or related ordinance against any third party  
17 and to bring an action for injunctive relief or damages  
18 against any third party whose actions violate the exclusive  
19 solid waste collection franchise agreement or related  
20 ordinance.

21           (3) In any judgment entered pursuant to this section,  
22 the court shall award to the prevailing party the costs of  
23 litigation, reasonable attorney's fees, and expert witness  
24 fees.

25           (4) Prior to bringing an action pursuant to this  
26 section, a private company shall give notice to the government  
27 that granted the franchise 30 days prior to filing the action.

28           Section 4. This act shall take effect July 1, 2001.  
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HOUSE SUMMARY

Clarifies provisions relating to standards for incorporation, merger, and dissolution of local governments with regard to solid waste contracts. Requires waste processing facilities to maintain certain records. Provides an exception. Grants rights of enforcement to certain private companies with regard to solid waste franchise collection agreements.