

Bill No. SB 2142

Amendment No. 1 Barcode 413132

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Committee on Judiciary recommended the following substitute for amendment (940264):

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

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

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

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

Bill No. SB 2142

Amendment No. 1 Barcode 413132

1 the contract term, whichever is shorter, excluding any
2 automatic renewals or so-called "evergreen" provisions, and
3 may require that a copy of the pertinent portion of the
4 contract or other written evidence of the duration of the
5 contract be provided to the municipality within a reasonable
6 time 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. Section 403.7063, Florida Statutes, is
23 amended to read:

24 403.7063 Use of private services in solid waste
25 management; enforcement.--

26 (1) In providing services or programs for solid waste
27 management, local governments and state agencies should use
28 the most cost-effective means for the provision of services
29 and are encouraged to contract with private persons for any or
30 all of such services or programs in order to assure that such
31 services are provided on the most cost-effective basis.

Bill No. SB 2142

Amendment No. 1 Barcode 413132

1 Notwithstanding any special or general law to the contrary, no
2 county or municipality shall adopt or enforce regulations that
3 discriminate against privately owned solid waste management
4 facilities because they are privately owned. However, nothing
5 in this section shall interfere with the county's or
6 municipality's ability to control the flow of solid waste
7 within its boundaries pursuant to this chapter.

8 (2) A private company that is a party to a solid waste
9 collection franchise agreement with a local government shall
10 have the right to enforce that agreement or related ordinance
11 against any third party and to bring an action for injunctive
12 relief or damages against any third party whose actions
13 infringe upon the solid waste collection franchise agreement
14 or related ordinance.

15 (3) In any judgment entered pursuant to this section,
16 the court shall award to the prevailing party the costs of
17 litigation, reasonable attorney's fees, and expert witness
18 fees. A local government shall not receive or be liable for
19 the costs of litigation, reasonable attorney's fees, and
20 expert witness fees under this paragraph.

21 (4) A private company that intends to bring an action
22 under this section must give notice, 30 days before filing the
23 action, to the government that granted the franchise.

24 Section 3. Subsection (1) of section 403.707, Florida
25 Statutes, is amended, and subsection (14) is added to that
26 section, to read:

27 403.707 Permits.--

28 (1) No solid waste management facility may be
29 operated, maintained, constructed, expanded, modified, or
30 closed without an appropriate and currently valid permit or
31 registration issued by the department, unless specifically

Bill No. SB 2142Amendment No. 1 Barcode 413132

1 exempted by department rule. Solid waste construction permits
2 issued under this section may include any permit conditions
3 necessary to achieve compliance with the recycling
4 requirements of this act. The department shall pursue
5 reasonable timeframes for closure and construction
6 requirements, considering pending federal requirements and
7 implementation costs to the permittee. The department shall
8 adopt a rule establishing performance standards for
9 construction and closure of solid waste management facilities.
10 The standards shall allow flexibility in design and
11 consideration for site-specific characteristics.

12 (14)(a) Any materials recovery facility for which a
13 permit is required, and any other facility designated by
14 department rule at which construction and demolition debris is
15 sorted, recovered, recycled, or processed for reuse or other
16 purposes, shall use scales that conform with the requirements
17 of chapter 531 and any rules adopted under that chapter. All
18 such facilities shall keep monthly records of the following
19 information: the total weight of materials received at the
20 facility; the total weight of materials recovered, recycled,
21 or reused, recorded by category; and the total weight of
22 materials not recovered, recycled, or reused.

23 (b) The department shall implement the requirements of
24 this section by rule, and such requirements shall become
25 effective only after the implementing rules become effective.
26 Such rules must designate the types of facilities and the
27 categories of materials for which records must be kept
28 pursuant to this subsection and must specify requirements
29 relating to reporting such information to the department.

30 (c) The designated facilities also shall keep detailed
31 records, including the name and location of the solid waste

Bill No. SB 2142

Amendment No. 1 Barcode 413132

1 disposal facility at which material not recovered, recycled,
2 or reused is ultimately disposed of. The implementing rules
3 must specify the requirements relating to reporting this
4 information to the department.

5 (d) This subsection does not apply to a recovered-
6 materials processing facility. This subsection does not alter
7 or otherwise affect the list of recovered materials as set
8 forth in s. 403.703(7) or the regulation of recovered
9 materials as provided in s. 403.7046.

10 Section 4. This act shall take effect July 1, 2001.

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13 ===== T I T L E A M E N D M E N T =====

14 And the title is amended as follows:

15 Delete everything before the enacting clause

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17 and insert:

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A bill to be entitled

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An act relating to solid waste collection;

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amending s. 165.061, F.S.; providing

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requirements for the plan for incorporation of

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a new municipality relating to contracts for

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solid waste collection; amending s. 403.7063,

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F.S.; providing for the enforcement of

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provisions relating to the use of private

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services in solid waste management; amending s.

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403.707, F.S.; amending provisions relating to

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permitting solid waste management facilities;

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providing requirements for scales used by and

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records that must be kept by materials recovery

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facilities and facilities at which construction

Bill No. SB 2142

Amendment No. 1 Barcode 413132

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and demolition debris is processed; providing
for applicability; providing for rulemaking;
providing an effective date.