

Bill No. SB 2142

Amendment No. 1 Barcode 940264

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Committee on Comprehensive Planning, Local and Military Affairs recommended the following amendment:

**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

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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, and may require that a copy of the~~  
21 pertinent portion of the contract or other written evidence of  
22 the duration of the contract be provided to the municipality  
23 within a reasonable time following a written request to do so.

24 Section 2. Subsections (24), (25), and (26) are added  
25 to section 403.706, Florida Statutes, to read:

26 403.706 Local government solid waste  
27 responsibilities.--

28 (24) Any materials recovery facility and any facility  
29 at which construction and demolition debris is sorted,  
30 recovered, recycled, or processed for reuse or other purposes  
31 shall, using scales that conform to the requirements of

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1 chapter 531 and any rules adopted under that chapter, keep  
2 monthly records of the following information:

3 (a) The total weight of materials received at the  
4 facility.

5 (b) The total weight of materials recovered, recycled,  
6 or reused.

7 (c) The total weight of materials not recovered,  
8 recycled, or reused.

9 (25) The department shall adopt by rule no later than  
10 February 1, 2002, the categories of materials for which  
11 records must be kept pursuant to subsection (24). The rule  
12 shall include, at a minimum, those materials set forth in s.  
13 403.703(7) and (17), excluding rocks, soils, tree remains,  
14 trees, and other vegetative matter. The facilities specified  
15 in paragraph (b) must also keep detailed records, including  
16 the name and location of the solid waste disposal facility at  
17 which material not recovered, recycled, or reused is  
18 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 (26) Subsections (24) and (25) do not apply to a  
24 recovered materials processing facility. This section shall  
25 not alter or otherwise affect the list of recovered materials  
26 as set forth in s. 403.703(7) or the regulation of recovered  
27 materials as 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.--

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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 with a local government shall  
16 have the right to enforce that agreement or related ordinance  
17 against any third party and to bring an action for injunctive  
18 relief or damages against any third party whose actions  
19 infringe upon the exclusive solid waste collection franchise  
20 agreement or related 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. A local government shall not receive or be liable for  
25 the cost of litigation under this subsection.

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

29           Section 4. This act shall take effect July 1, 2001.  
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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 Delete everything before the enacting clause

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5 and insert:

6 A bill to be entitled

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

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