

By Senator Dyer

14-891-01

1                                   A bill to be entitled  
2           An act relating to solid waste collection;  
3           amending s. 165.061, F.S.; clarifying  
4           provisions related to the treatment of existing  
5           solid waste contracts in areas affected by the  
6           merger or incorporation of municipalities;  
7           amending s. 403.706, F.S.; requiring waste  
8           processing facilities to keep certain records;  
9           providing for the adoption of rules; amending  
10          s. 403.7063, F.S.; authorizing certain private  
11          companies to enforce certain  
12          solid-waste-collection agreements; providing an  
13          effective date.

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

16  
17           Section 1. Subsection (1) and paragraph (d) of  
18          subsection (2) of section 165.061, Florida Statutes, are  
19          amended to read:

20           165.061 Standards for incorporation, merger, and  
21          dissolution.--

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

25           (a) It must be compact and contiguous and amenable to  
26          separate municipal government.

27           (b) It must have a total population, as determined in  
28          the latest official state census, special census, or estimate  
29          of population, in the area proposed to be incorporated of at  
30          least 1,500 persons in counties with a population of 75,000 or  
31

1 less, and of at least 5,000 population in counties with a  
2 population of more than 75,000.

3 (c) It must have an average population density of at  
4 least 1.5 persons per acre or have extraordinary conditions  
5 requiring the establishment of a municipal corporation with  
6 less existing density.

7 (d) It must have a minimum distance of any part of the  
8 area proposed for incorporation from the boundaries of an  
9 existing municipality within the county of at least 2 miles or  
10 have an extraordinary natural boundary which requires separate  
11 municipal government.

12 (e) It must have a proposed municipal charter which:

13 1. Prescribes the form of government and clearly  
14 defines the responsibility for legislative and executive  
15 functions.

16 2. Does not prohibit the legislative body of the  
17 municipality from exercising its powers to levy any tax  
18 authorized by the Constitution or general law.

19 (f) In accordance with s. 10, Art. I of the State  
20 Constitution, the plan for incorporation must honor existing  
21 solid-waste contracts in the affected geographic area subject  
22 to incorporation. However, the plan for incorporation may  
23 provide for existing contracts for solid-waste-collection  
24 services to be honored only for 5 years or the remainder of  
25 the contract term, whichever is less, and may require that a  
26 copy of the pertinent portion of the contract or other written  
27 evidence of the duration of the contract, excluding any  
28 automatic renewals or evergreen provisions, be provided to the  
29 municipality within a reasonable time after a written request  
30 to do so.

31

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

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

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

19           403.706 Local government solid waste  
20 responsibilities.--

21           (18)(a) Each operator of a solid waste management  
22 facility owned or operated by or on behalf of a county or  
23 municipality shall weigh all solid waste when it is received.  
24 The scale used to measure the solid waste must ~~shall~~ conform  
25 to the requirements of chapter 531 and any rules adopted  
26 ~~promulgated~~ thereunder.

27           (b) Each facility at which construction and demolition  
28 debris is sorted, recovered, recycled, or processed for reuse  
29 must keep monthly records that disclose the:

30           1. The total weight of all materials received, for  
31 each category of material;

1           2. Category and weight of each material reused,  
2 recovered, or recycled;

3           3. Category and weight of each material not reused,  
4 recovered, or recycled; and

5           4. Name and location of any facility at which material  
6 not reused, recovered, or recycled is disposed.

7           (c) Material received by a waste processing facility  
8 which is not reused, recovered, or recycled must be disposed  
9 of at a solid waste disposal facility permitted by the  
10 department. Any material that is commingled with or  
11 contaminated by Class I waste must be disposed of in a Class I  
12 landfill.

13           (d) This subsection does not apply to construction and  
14 demolition debris disposal facilities that are permitted by  
15 the department and that accept such debris for disposal only,  
16 nor does it apply to recovered materials processing  
17 facilities.

18           (e) By October 1, 2001, the department shall adopt  
19 rules specifying categories of materials for which records  
20 must be kept, including materials specified in s. 403.703(7)  
21 and (17).

22           Section 3. Section 403.7063, Florida Statutes, is  
23 amended to read:

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

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.

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) Any private company that is a party to a  
9 solid-waste-collection franchise agreement may enforce that  
10 agreement or the related ordinance against any third party by  
11 filing an action for injunctive relief or damages against a  
12 third party whose actions violate the agreement or ordinance.  
13 In any judgment entered pursuant to this subsection, the court  
14 shall award to the prevailing party the costs of litigation  
15 and reasonable attorney's fees and expert witness fees. Before  
16 filing an action pursuant to this subsection, a plaintiff must  
17 give 30-day notice to the government that granted the  
18 franchise.

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

21 \*\*\*\*\*

22 SENATE SUMMARY

23 Clarifies certain provisions related to the treatment of  
24 existing solid waste contracts in areas affected by the  
25 merger or incorporation of municipalities. Requires waste  
26 processing facilities to maintain certain records and  
27 authorizes certain private companies to enforce  
28 solid-waste-collection agreements to which they are  
29 parties. (See bill for details.)  
30  
31