



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3692

Introduced 2/11/2010, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-19-1
30 ILCS 805/8.33 new

from Ch. 24, par. 11-19-1

Amends the Illinois Municipal Code. Provides that if a municipality with a population of less than 1,000,000 has never awarded a franchise to a private entity for the collection of waste from non-residential locations, then the municipality may not award a franchise without issuing a request for proposal. Specifies the requirements for issuing a request for proposal and awarding a franchise. Provides that the franchise fee may not exceed \$25,000. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB096 14101 RLJ 28889 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Municipal Code is amended by
5 changing Section 11-19-1 as follows:

6 (65 ILCS 5/11-19-1) (from Ch. 24, par. 11-19-1)
7 Sec. 11-19-1. Contracts.

8 (a) Any city, village or incorporated town may make
9 contracts with any other city, village, or incorporated town or
10 with any person, corporation, or county, or any agency created
11 by intergovernmental agreement, for more than one year and not
12 exceeding 30 years relating to the collection and final
13 disposition, or relating solely to either the collection or
14 final disposition of garbage, refuse and ashes. A municipality
15 may contract with private industry to operate a designated
16 facility for the disposal, treatment or recycling of solid
17 waste, and may enter into contracts with private firms or local
18 governments for the delivery of waste to such facility. In
19 regard to a contract involving a garbage, refuse, or garbage
20 and refuse incineration facility, the 30 year contract
21 limitation imposed by this Section shall be computed so that
22 the 30 years shall not begin to run until the date on which the
23 facility actually begins accepting garbage or refuse. The

1 payments required in regard to any contract entered into under
2 this Division 19 shall not be regarded as indebtedness of the
3 city, village, or incorporated town, as the case may be, for
4 the purpose of any debt limitation imposed by any law.

5 (b) If a municipality with a population of less than
6 1,000,000 has never awarded a franchise to a private entity for
7 the collection of waste from non-residential locations, then
8 that municipality may not award such a franchise without
9 issuing a request for proposal. The municipality may not issue
10 a request for proposal without first: (i) holding at least one
11 public hearing seeking comment on whether ~~the advisability of~~
12 ~~awarding~~ such a franchise should be awarded; (ii) providing at
13 least 90 ~~30~~ days' written notice of the hearing, delivered by
14 first class mail to all private entities that provide
15 non-residential waste collection services within the
16 municipality that the municipality is able to identify through
17 its records; ~~and~~ (iii) providing public notice of the hearing;
18 and (iv) allowing at least 45 days after the public hearing for
19 written public comments to be submitted to the municipality on
20 the question of whether a franchise should be awarded. At the
21 public hearing, the municipality must disclose and discuss the
22 proposed franchise fee or calculation formula of such franchise
23 fee that it will receive under the proposed franchise. The
24 franchise fee may not exceed \$25,000. The franchise fee and any
25 other fees, taxes, or charges imposed by the municipality in
26 connection with a franchise for the collection of waste from

1 non-residential locations must be used exclusively for costs
2 associated with administering the franchise program.

3 (b-5) A municipality may not award a franchise less than 30
4 days after the close of the comment period required by
5 subsection (b).

6 (c) If a municipality with a population of less than
7 1,000,000 has never awarded a franchise to a private entity for
8 the collection of waste from non-residential locations, then a
9 private entity may not begin providing waste collection
10 services to non-residential locations under a franchise
11 agreement with that municipality at any time before the date
12 that is 15 months after the date the ordinance or resolution
13 approving the award of the franchise is adopted.

14 (c-5) If a municipality has not awarded a franchise within
15 12 months after the date of notice of the public hearing held
16 pursuant to subsection (b), then the municipality must hold
17 another public hearing and adhere to the requirements set forth
18 in subsections (b), (b-5), and (c).

19 (d) For purposes of this Section, "waste" means garbage,
20 refuse, or ashes as defined in Section 11-19-2.

21 (e) A home rule unit may not award a franchise to a private
22 entity for the collection of waste in a manner contrary to the
23 provisions of this Section. This Section is a limitation under
24 subsection (i) of Section 6 of Article VII of the Illinois
25 Constitution on the concurrent exercise by home rule units of
26 powers and functions exercised by the State.

1 (Source: P.A. 95-856, eff. 10-1-08.)

2 Section 90. The State Mandates Act is amended by adding
3 Section 8.33 as follows:

4 (30 ILCS 805/8.33 new)

5 Sec. 8.33. Exempt mandate. Notwithstanding Sections 6 and 8
6 of this Act, no reimbursement by the State is required for the
7 implementation of any mandate created by this amendatory Act of
8 the 96th General Assembly.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.