



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB1807

Introduced 2/9/2017, by Sen. Don Harmon

#### SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-19-1	from Ch. 24, par. 11-19-1
65 ILCS 5/11-19-2	from Ch. 24, par. 11-19-2
65 ILCS 5/11-19-5	from Ch. 24, par. 11-19-5

Amends the Illinois Municipal Code. Provides that a municipality shall not enter into any new contracts, but may extend a contract or renew a contract, with any other unit of local government, by intergovernmental agreement or otherwise, or with any business or person relating to the collecting and final disposition of general construction or demolition debris. Provides that a municipality shall not provide by ordinance for any methods that award a franchise for the collection or final disposition of general construction or demolition debris. Provides that, in municipalities with a population under 1,000,000, a franchise shall not be awarded to any private entity for the collection of general construction or demolition debris from residential or non-residential locations. Provides that a franchise entered into before the effective date of the amendatory Act may be renewed or extended irrespective of whether the franchise or contract automatically renews or is amended.

LRB100 11120 AWJ 21386 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 Sections 11-19-1, 11-19-2, and 11-19-5 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. On and  
5 after the effective date of this amendatory Act of the 100th  
6 General Assembly, a municipality shall not enter into any new  
7 contracts with any other unit of local government, by  
8 intergovernmental agreement or otherwise, or with any  
9 corporation or person relating to the collecting and final  
10 disposition of general construction or demolition debris.  
11 However, a municipality may renew or extend a contract entered  
12 into before the effective date of this amendatory Act of the  
13 100th General Assembly with any other unit of local government,  
14 by intergovernmental agreement or otherwise, or with any  
15 corporation or person relating to the collection and final  
16 disposition of general construction or demolition debris.

17 (a-5) If a municipality with a population of less than  
18 1,000,000 located in a county as defined in the Solid Waste and  
19 Recycling Program Act has never awarded a franchise to a  
20 private entity for the collection of waste from non-residential  
21 locations, then the municipality may not award a franchise  
22 unless:

23 (1) the municipality provides prior written notice to  
24 all haulers licensed to provide waste hauling service in  
25 that municipality of the municipality's intent to issue a  
26 request for proposal under this Section;

1           (2) the municipality adopts an ordinance requiring  
2 each licensed hauler, for a period of no less than 36  
3 continuous months commencing on the first day of the month  
4 following the effective date of such ordinance, to report  
5 every 6 months to the municipality the number of  
6 non-residential locations served by the hauler in the  
7 municipality and the number of non-residential locations  
8 contracting with the hauler for the recyclable materials  
9 collection service pursuant to Section 10 of the Solid  
10 Waste Hauling and Recycling Program Act; and

11           (3) the report to the municipality required under  
12 paragraph (2) of this subsection (a-5) for the final 6  
13 months of that 36-month period establishes that less than  
14 50% of the non-residential locations in the municipality  
15 contract for recyclable material collection services  
16 pursuant to Section 10 of the Solid Waste Hauling and  
17 Recycling Program Act.

18           All such reports shall be filed with the municipality by  
19 the hauler on or before the last day of the month following the  
20 end of the 6-month reporting period. Within 15 days after the  
21 last day for licensed haulers to file such reports, the  
22 municipality shall post on its website: (i) the information  
23 provided by each hauler pursuant to paragraph (2) of this  
24 subsection (a-5), without identifying the hauler; and (ii) the  
25 aggregate number of non-residential locations served by all  
26 licensed haulers in the municipality and the aggregate number

1 of non-residential locations contracting with all licensed  
2 haulers in the municipality for the recyclable materials  
3 collection service under Section 10 of the Solid Waste Hauling  
4 and Recycling Program Act.

5 (a-10) Beginning at the conclusion of the 36-month  
6 reporting period and thereafter, and upon written request of  
7 the municipality, each licensed hauler shall, for every 6-month  
8 period, report to the municipality (i) the number of  
9 non-residential locations served by the hauler in the  
10 municipality and the number of non-residential locations  
11 contracting with the hauler for the recyclable materials  
12 collection service pursuant to Section 10 of the Solid Waste  
13 Hauling and Recycling Program Act, (ii) an estimate of the  
14 quantity of recyclable materials, in tons, collected by the  
15 hauler in the municipality from non-residential locations  
16 contracting with the hauler for recyclable materials  
17 collection service pursuant to Section 10 of the Solid Waste  
18 Hauling and Recycling Program Act, and (iii) an estimate of the  
19 quantity of municipal waste, in tons, collected by the hauler  
20 in the municipality from those non-residential locations. All  
21 reports for that 6-month period shall be filed with the  
22 municipality by the hauler on or before the last day of the  
23 month following the end of the 6-month reporting period. Within  
24 15 days after the last day for licensed haulers to file such  
25 reports, the municipality shall post on its website: (i) the  
26 information provided by each hauler pursuant to this subsection

1 (a-10), without identifying the hauler; and (ii) the aggregate  
2 number of non-residential locations served by all licensed  
3 haulers in the municipality and the aggregate number of  
4 non-residential locations contracting with all licensed  
5 haulers in the municipality for the recyclable materials  
6 collection service under Section 10 of the Solid Waste Hauling  
7 and Recycling Program Act.

8 A municipality subject to subsection (a-5) of this Section  
9 may not award a franchise unless 2 consecutive 6-month reports  
10 determine that less than 50% of the non-residential locations  
11 within the municipality contract for recyclable material  
12 collection service pursuant to Section 10 of the Solid Waste  
13 Hauling and Recycling Program Act.

14 (b) If a municipality with a population of less than  
15 1,000,000 has never awarded a franchise to a private entity for  
16 the collection of waste from non-residential locations, then  
17 that municipality may not award such a franchise without  
18 issuing a request for proposal. The municipality may not issue  
19 a request for proposal without first: (i) holding at least one  
20 public hearing seeking comment on the advisability of issuing a  
21 request for proposal and awarding a franchise; (ii) providing  
22 at least 30 days' written notice of the hearing, delivered by  
23 first class mail to all private entities that provide  
24 non-residential waste collection services within the  
25 municipality that the municipality is able to identify through  
26 its records; and (iii) providing at least 30 days' public

1 notice of the hearing.

2 After issuing a request for proposal, the municipality may  
3 not award a franchise without first: (i) allowing at least 30  
4 days for proposals to be submitted to the municipality; (ii)  
5 holding at least one public hearing after the receipt of  
6 proposals on whether to award a franchise to a proposed  
7 franchisee; and (iii) providing at least 30 days' public notice  
8 of the hearing. At the public hearing, the municipality must  
9 disclose and discuss the proposed franchise fee or calculation  
10 formula of such franchise fee that it will receive under the  
11 proposed franchise.

12 (b-5) If no request for proposal is issued within 120 days  
13 after the initial public hearing required in subsection (b),  
14 then the municipality must hold another hearing as outlined in  
15 subsection (b).

16 (b-10) If a municipality has not awarded a franchise within  
17 210 days after the date that a request for proposal is issued  
18 pursuant to subsection (b), then the municipality must adhere  
19 to all of the requirements set forth in subsections (b) and  
20 (b-5).

21 (b-15) The franchise fee and any other fees, taxes, or  
22 charges imposed by the municipality in connection with a  
23 franchise for the collection of waste from non-residential  
24 locations must be used exclusively for costs associated with  
25 administering the franchise program.

26 (c) If a municipality with a population of less than

1 1,000,000 has never awarded a franchise to a private entity for  
2 the collection of waste from non-residential locations, then a  
3 private entity may not begin providing waste collection  
4 services to non-residential locations under a franchise  
5 agreement with that municipality at any time before the date  
6 that is 15 months after the date the ordinance or resolution  
7 approving the award of the franchise is adopted.

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

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

16 (f) A municipality shall not award a franchise to any  
17 private entity for the collection of general construction or  
18 demolition debris from residential or non-residential  
19 locations. This subsection does not invalidate, render  
20 unenforceable, or otherwise apply to the provisions of any  
21 franchise or contract between a municipality and a private  
22 entity for the collection of general construction or demolition  
23 debris entered into before the effective date of this  
24 amendatory Act of the 100th General Assembly. A franchise or  
25 contract entered into before the effective date of this  
26 amendatory Act of the 100th General Assembly may be renewed or



1 extended irrespective of whether the franchise or contract  
2 automatically renews or is amended. This subsection does not  
3 apply to a municipality with a population of 1,000,000 or more.  
4 (Source: P.A. 98-1079, eff. 8-26-14.)

5 (65 ILCS 5/11-19-2) (from Ch. 24, par. 11-19-2)

6 Sec. 11-19-2. As used in this Division 19, the words  
7 "garbage", "refuse", and "ashes" have the following meanings:  
8 (1) "Garbage". Wastes resulting from the handling,  
9 preparation, cooking and consumption of food; wastes from the  
10 handling, storage and sale of produce. (2) "Refuse".  
11 Combustible trash, including, but not limited to, paper,  
12 cartons, boxes, barrels, wood, excelsior, tree branches, yard  
13 trimmings, wood furniture, bedding; noncombustible trash,  
14 including, but not limited to, metals, tin cans, metal  
15 furniture, dirt, small quantities of rock and pieces of  
16 concrete, glass, crockery, other mineral waste; street  
17 rubbish, including, but not limited to, street sweepings, dirt,  
18 leaves, catch-basin dirt, contents of litter receptacles, but  
19 refuse does not mean earth and wastes from building operations,  
20 nor shall it include solid wastes resulting from industrial  
21 processes and manufacturing operations such as food processing  
22 wastes, boiler-house cinders, lumber, scraps and shavings. (3)  
23 "Ashes". Residue from fires used for cooking and for heating  
24 buildings. (4) "General construction or demolition debris" has  
25 the meaning given to that term in Section 3.160 of the

1 Environmental Protection Act.

2 (Source: Laws 1961, p. 576.)

3 (65 ILCS 5/11-19-5) (from Ch. 24, par. 11-19-5)

4 Sec. 11-19-5. Every city, village or incorporated town may  
5 provide such method or methods as shall be approved by the  
6 corporate authorities for the disposition of garbage, refuse  
7 and ashes. Any municipality may provide by ordinance that such  
8 method or methods shall be the exclusive method or methods for  
9 the disposition of garbage, refuse and ashes to be allowed  
10 within that municipality. Such ordinance may be enacted  
11 notwithstanding the fact that competition may be displaced or  
12 that such ordinance may have an anti-competitive effect. Such  
13 methods may include, but need not be limited to land fill,  
14 feeding of garbage to hogs, incineration, reduction to  
15 fertilizer, or otherwise. Salvage and fertilizer or other  
16 matter or things of value may be sold and the proceeds used for  
17 the operation of the system. Material that is intended or  
18 collected to be recycled is not garbage, refuse or ashes. A  
19 municipality shall not provide by ordinance for any methods  
20 that award a franchise for the collection or final disposition  
21 of general construction or demolition debris, except as allowed  
22 under Section 11-19-1.

23 (Source: P.A. 84-794.)