



Rep. Anthony DeLuca

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09800HB5666ham002

LRB098 20243 MGM 58407 a

1 AMENDMENT TO HOUSE BILL 5666

2 AMENDMENT NO. _____. Amend House Bill 5666, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the
6 Illinois Solid Waste Hauling and Recycling Program Act.

7 Section 5. Definitions. As used in this Act, unless the
8 context clearly indicates otherwise:

9 "County" means a county in Illinois having a population of
10 3,000,000 or more, and any county that is contiguous to that
11 county.

12 "Hauler" means any person who engages in the business of
13 collecting or hauling garbage, municipal waste, recyclable
14 material, landscape waste, brush, or other refuse on a
15 continuous and regular basis, and makes multiple scheduled
16 collections per month within a county.

1 "Landscape waste" means all accumulations of grass or
2 shrubbery cuttings, leaves, tree limbs, and other materials
3 accumulated as the result of the care of lawns, shrubbery,
4 vines, and trees.

5 "Municipal waste" means garbage, general household
6 institutional and commercial waste, industrial lunchroom or
7 office waste, and landscape waste. "Municipal waste" also
8 includes "garbage", "refuse", and "ashes", as those terms are
9 defined in Section 11-19-2 of the Municipal Code.

10 "Municipality" means a municipality, as defined in Section
11 1 of Article VII of the Illinois Constitution, that is located
12 either partially or wholly within the boundaries of a county as
13 defined in this Section. "Municipality" does not include a
14 municipality with a population of 2,000,000 or more.

15 "Person" means any business, public or private
16 corporation, partnership, association, government agency,
17 municipality, unit of local government, or other legal entity.

18 "Recycling" means a method, technique, or process designed
19 to remove any contaminant from waste so as to render that waste
20 reusable, or any process by which materials that would
21 otherwise be disposed of or discarded are collected, separated,
22 or processed and returned to the economic mainstream in the
23 form of raw materials or products.

24 "Recyclable material" means material that is separated
25 from municipal waste for the purpose of recycling, including,
26 but not limited to, ferrous metal cans, aluminum containers,

1 glass, plastics including HDPE or PET containers and plastics
2 #3 through #7, newsprint, corrugated paper, junk mail,
3 magazines, office paper, and boxboard.

4 Section 10. Collection of recyclable materials.

5 (a) Each hauler operating in a county or municipality shall
6 offer, either as part of basic service, or alternatively as an
7 additional service, the collection of recyclable materials
8 from any commercial business, commercial property, or
9 institutional facility within that county or municipality.
10 Haulers shall provide information on how and what materials to
11 recycle at least once every other year to customers with
12 recycling service. Haulers shall provide a written offer to
13 provide recycling services to commercial businesses, owners or
14 operators of commercial property, and institutional facilities
15 that are not recycling. Those offers shall be made at least
16 once during the term of the contract or at least once every 2
17 years, whichever is shorter. The hauler's written offer shall
18 include a request that the commercial business, owner or
19 operator of the commercial business, or institutional facility
20 respond to the hauler's request to provide recycling services
21 in writing.

22 (b) Recyclable materials collected by a hauler within a
23 county or municipality shall not be deposited into a landfill
24 or incinerator unless all reasonable efforts have been made by
25 the hauler to sell those recyclable materials to a processor or

1 end user.

2 (c) Ownership of recyclable materials set out for
3 collection shall remain with the commercial business,
4 commercial property owner, or institutional facility that set
5 out the material for collection until the material is removed
6 by the hauler.

7 Section 15. Compliance. Nothing in this Act shall exempt a
8 hauler from obtaining a license or permit required by other
9 applicable laws or regulations. The hauler shall at all times
10 operate in compliance with all applicable laws and regulations.

11 In the event of a conflict between this Act and any other
12 law, including, but not limited to, the Solid Waste Planning
13 and Recycling Act, the Counties Code, and the Illinois
14 Municipal Code, this Act shall control.

15 Section 20. Applicability. Nothing in this Act shall apply
16 to a contract or franchise awarded pursuant to Section 11-19-1
17 of the Municipal Code, entered into before the effective date
18 of this Act.

19 Section 25. Home Rule. No home rule municipality or home
20 rule county may provide for the collection of recyclable
21 materials in a manner less restrictive than the provisions of
22 this Act. This Act is a limitation under subsection (i) of
23 Section 6 of Article VII of the Illinois Constitution on the

1 concurrent exercise by home rule municipalities or home rule
2 counties of powers and functions exercised by the State.

3 Section 90. The Illinois Municipal Code is amended by
4 changing Section 11-19-1 as follows:

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

6 Sec. 11-19-1. Contracts.

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

1 city, village, or incorporated town, as the case may be, for
2 the purpose of any debt limitation imposed by any law.

3 (a-5) If a municipality with a population of less than
4 1,000,000 located in a county as defined in the Illinois Solid
5 Waste and Recycling Program Act has never awarded a franchise
6 to a private entity for the collection of waste from
7 non-residential locations, then the municipality may not award
8 a franchise unless:

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

13 (2) the municipality adopts an ordinance requiring
14 each licensed hauler, for a period of no less than 36
15 continuous months commencing on the first day of the month
16 following the effective date of such ordinance, to report
17 every 6 months to the municipality the number of
18 non-residential locations served by the hauler in the
19 municipality and the number of non-residential locations
20 contracting with the hauler for the recyclable materials
21 collection service pursuant to Section 10 of the Solid
22 Waste Hauling and Recycling Program Act; and

23 (3) the report to the municipality required under
24 paragraph (2) of this subsection (a-5) for the final 6
25 months of that 36-month period establishes that less than
26 50% of the non-residential locations in the municipality

1 contract for recyclable material collection services
2 pursuant to Section 10 of the Solid Waste Hauling and
3 Recycling Program Act.

4 All such reports shall be filed with the municipality by
5 the hauler on or before the last day of the month following the
6 end of the 6-month reporting period. Within 15 days after the
7 last day for licensed haulers to file such reports, the
8 municipality shall post on its website: (i) the information
9 provided by each hauler pursuant to paragraph (2) of this
10 subsection (a-5), without identifying the hauler; and (ii) the
11 aggregate number of non-residential locations served by all
12 licensed haulers in the municipality and the aggregate number
13 of non-residential locations contracting with all licensed
14 haulers in the municipality for the recyclable materials
15 collection service under Section 10 of the Solid Waste Hauling
16 and Recycling Program Act.

17 (a-10) Beginning at the conclusion of the 36-month
18 reporting period and thereafter, and upon written request of
19 the municipality, each licensed hauler shall, for every 6-month
20 period, report to the municipality the number of
21 non-residential locations served by the hauler in the
22 municipality and the number of non-residential locations
23 contracting with the hauler for the recyclable materials
24 collection service pursuant to Section 10 of the Solid Waste
25 Hauling and Recycling Program Act. All reports for that 6-month
26 period shall be filed with the municipality by the hauler on or

1 before the last day of the month following the end of the
2 6-month reporting period. Within 15 days after the last day for
3 licensed haulers to file such reports, the municipality shall
4 post on its website: (i) the information provided by each
5 hauler pursuant this subsection (a-10), without identifying
6 the hauler; and (ii) the aggregate number of non-residential
7 locations served by all licensed haulers in the municipality
8 and the aggregate number of non-residential locations
9 contracting with all licensed haulers in the municipality for
10 the recyclable materials collection service under Section 10 of
11 the Solid Waste Hauling and Recycling Program Act.

12 A municipality subject to subsection (a-5) of this Section
13 may not award a franchise unless 3 consecutive 6-month reports
14 determine that less than 50% of the non-residential locations
15 within the municipality contract for recyclable material
16 collection service pursuant to Section 10 of the Solid Waste
17 Hauling and Recycling Program Act.

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

1 first class mail to all private entities that provide
2 non-residential waste collection services within the
3 municipality that the municipality is able to identify through
4 its records; and (iii) providing at least 30 days' public
5 notice of the hearing.

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

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

20 (b-10) If a municipality has not awarded a franchise within
21 210 days after the date that a request for proposal is issued
22 pursuant to subsection (b), then the municipality must adhere
23 to all of the requirements set forth in subsections (b) and
24 (b-5).

25 (b-15) The franchise fee and any other fees, taxes, or
26 charges imposed by the municipality in connection with a

1 franchise for the collection of waste from non-residential
2 locations must be used exclusively for costs associated with
3 administering the franchise program.

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

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

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

20 (Source: P.A. 95-856, eff. 10-1-08; 96-1215, eff. 7-22-10.)

21 Section 95. The Solid Waste Planning and Recycling Act is
22 amended by adding Section 13 as follows:

23 (415 ILCS 15/13 new)

24 Sec. 13. Illinois Solid Waste Hauling and Recycling Program

1 Act. This Act is subject to the provisions of the Illinois
2 Solid Waste Hauling and Recycling Program Act.

3 Section 999. Effective date. This Act takes effect upon
4 becoming law.".