

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

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

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

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

16 "Landscape waste" means all accumulations of grass or
17 shrubbery cuttings, leaves, tree limbs, and other materials
18 accumulated as the result of the care of lawns, shrubbery,
19 vines, and trees.

20 "Municipal waste" means garbage, general household
21 institutional and commercial waste, industrial lunchroom or
22 office waste, and landscape waste. "Municipal waste" also
23 includes "garbage", "refuse", and "ashes", as those terms are

1 defined in Section 11-19-2 of the Municipal Code.

2 "Municipality" means a municipality, as defined in Section
3 1 of Article VII of the Illinois Constitution, that is located
4 either partially or wholly within the boundaries of a county as
5 defined in this Section. "Municipality" does not include a
6 municipality with a population of 2,000,000 or more.

7 "Person" means any business, public or private
8 corporation, partnership, association, government agency,
9 municipality, unit of local government, or other legal entity.

10 "Recycling" means a method, technique, or process designed
11 to remove any contaminant from waste so as to render that waste
12 reusable, or any process by which materials that would
13 otherwise be disposed of or discarded are collected, separated,
14 or processed and returned to the economic mainstream in the
15 form of raw materials or products.

16 "Recyclable material" means material that is separated
17 from municipal waste for the purpose of recycling, including,
18 but not limited to, ferrous metal cans, aluminum containers,
19 glass, plastics including HDPE or PET containers and plastics
20 #3 through #7, newsprint, corrugated paper, junk mail,
21 magazines, office paper, and boxboard.

22 Section 10. Collection of recyclable materials.

23 (a) Each hauler operating in a county or municipality shall
24 offer, either as part of basic service, or alternatively as an
25 additional service, the collection of recyclable materials

1 from any commercial business, commercial property, or
2 institutional facility within that county or municipality.
3 Haulers shall provide information on how and what materials to
4 recycle at least once every other year to customers with
5 recycling service. Haulers shall provide a written offer to
6 provide recycling services to commercial businesses, owners or
7 operators of commercial property, and institutional facilities
8 that are not recycling. Those offers shall be made at least
9 once during the term of the contract or at least once every 2
10 years, whichever is shorter. The hauler's written offer shall
11 include a request that the commercial business, owner or
12 operator of the commercial business, or institutional facility
13 respond to the hauler's request to provide recycling services
14 in writing.

15 (b) Recyclable materials collected by a hauler within a
16 county or municipality shall not be deposited into a landfill
17 or incinerator unless all reasonable efforts have been made by
18 the hauler to sell those recyclable materials to a processor or
19 end user.

20 (c) Ownership of recyclable materials set out for
21 collection shall remain with the commercial business,
22 commercial property owner, or institutional facility that set
23 out the material for collection until the material is removed
24 by the hauler.

25 Section 15. Compliance. Nothing in this Act shall exempt a

1 hauler from obtaining a license or permit required by other
2 applicable laws or regulations. The hauler shall at all times
3 operate in compliance with all applicable laws and regulations.

4 In the event of a conflict between this Act and any other
5 law, including, but not limited to, the Solid Waste Planning
6 and Recycling Act, the Counties Code, and the Illinois
7 Municipal Code, this Act shall control.

8 Section 20. Applicability. Nothing in this Act shall apply
9 to a contract or franchise awarded pursuant to Section 11-19-1
10 of the Municipal Code, entered into before the effective date
11 of this Act. Nothing in this Act shall apply to a municipality
12 with a population of 2,000,000 or more.

13 Section 25. Home Rule. No home rule municipality with a
14 population of less than 2,000,000 or home rule county may
15 provide for the collection of recyclable materials in a manner
16 less restrictive than the provisions of this Act. This Act is a
17 limitation under subsection (i) of Section 6 of Article VII of
18 the Illinois Constitution on the concurrent exercise by home
19 rule municipalities or home rule counties of powers and
20 functions exercised by the State.

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

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

2 Sec. 11-19-1. Contracts.

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

23 (a-5) If a municipality with a population of less than
24 1,000,000 located in a county as defined in the Solid Waste and
25 Recycling Program Act has never awarded a franchise to a
26 private entity for the collection of waste from non-residential

1 locations, then the municipality may not award a franchise
2 unless:

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

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

17 (3) the report to the municipality required under
18 paragraph (2) of this subsection (a-5) for the final 6
19 months of that 36-month period establishes that less than
20 50% of the non-residential locations in the municipality
21 contract for recyclable material collection services
22 pursuant to Section 10 of the Solid Waste Hauling and
23 Recycling Program Act.

24 All such reports shall be filed with the municipality by
25 the hauler on or before the last day of the month following the
26 end of the 6-month reporting period. Within 15 days after the

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

11 (a-10) Beginning at the conclusion of the 36-month
12 reporting period and thereafter, and upon written request of
13 the municipality, each licensed hauler shall, for every 6-month
14 period, report to the municipality (i) the number of
15 non-residential locations served by the hauler in the
16 municipality and the number of non-residential locations
17 contracting with the hauler for the recyclable materials
18 collection service pursuant to Section 10 of the Solid Waste
19 Hauling and Recycling Program Act, (ii) an estimate of the
20 quantity of recyclable materials, in tons, collected by the
21 hauler in the municipality from non-residential locations
22 contracting with the hauler for recyclable materials
23 collection service pursuant to Section 10 of the Solid Waste
24 Hauling and Recycling Program Act, and (iii) an estimate of the
25 quantity of municipal waste, in tons, collected by the hauler
26 in the municipality from those non-residential locations. All

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

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

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

1 request for proposal and awarding a franchise; (ii) providing
2 at least 30 days' written notice of the hearing, delivered by
3 first class mail to all private entities that provide
4 non-residential waste collection services within the
5 municipality that the municipality is able to identify through
6 its records; and (iii) providing at least 30 days' public
7 notice of the hearing.

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

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

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

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

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

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

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

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

1 (415 ILCS 15/13 new)

2 Sec. 13. Solid Waste Hauling and Recycling Program Act.

3 This Act is subject to the provisions of the Solid Waste

4 Hauling and Recycling Program Act.

5 Section 999. Effective date. This Act takes effect upon

6 becoming law.