



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4432

Introduced 2/3/2020, by Rep. Mark Batinick

SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-19-5	from Ch. 24, par. 11-19-5
65 ILCS 5/11-19-5.5 new	
65 ILCS 5/11-19-7	from Ch. 24, par. 11-19-7

Amends the Disposal of Refuse, Garbage and Ashes Division of the Illinois Municipal Code. Provides that a municipality may not enter into a contract or franchise under the Division exclusively with one provider of disposal services or provide for an exclusive method or methods for the disposition of garbage, refuse, or ashes if the exclusive method or methods may displace competition or may have an anti-competitive effect. Limits home rule powers. Makes conforming changes.

LRB101 18434 AWJ 67882 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

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 11-19-5 and 11-19-7 and by adding Section
6 11-19-5.5 as follows:

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

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

1 municipality with a population of less than 1,000,000 shall not
2 provide by ordinance for any methods that award a franchise for
3 the collection or final disposition of general construction or
4 demolition debris, except as allowed under Section 11-19-1.

5 (Source: P.A. 100-316, eff. 1-1-18.)

6 (65 ILCS 5/11-19-5.5 new)

7 Sec. 11-19-5.5. Exclusive contract or franchise.
8 Notwithstanding any other provision of law, a municipality may
9 not enter into a contract or franchise under this Division
10 exclusively with one provider of disposal services or provide
11 for an exclusive method or methods for the disposition of
12 garbage, refuse, or ashes if the exclusive method or methods
13 may displace competition or may have an anti-competitive
14 effect.

15 A home rule municipality may not enter into contracts or
16 franchises in a manner inconsistent with this Section. This
17 Section is a limitation under subsection (i) of Section 6 of
18 Article VII of the Illinois Constitution on the concurrent
19 exercise by home rule units of powers and functions exercised
20 by the State.

21 (65 ILCS 5/11-19-7) (from Ch. 24, par. 11-19-7)

22 Sec. 11-19-7. When the corporate authorities of 2 or more
23 cities, villages, or incorporated towns each declare by
24 ordinance that it is in the best interests of such cities,

1 villages, or incorporated towns to join with each other or with
2 any one or more than one county in the collection and disposal
3 or solely in the collection or solely in the disposal of
4 garbage, refuse and ashes, they shall cause a contract to be
5 prepared which shall set forth: (a) Whether the cities,
6 villages or incorporated towns shall participate in a joint
7 garbage department to be operated as an inter-municipal
8 function; or whether the cities, villages or incorporated towns
9 shall enter into a contract or contracts with a private party
10 or parties for the collection and disposal of garbage, refuse
11 and ashes; (b) The financial responsibilities and
12 contributions of the respective cities, villages and
13 incorporated towns and counties; (c) The personnel
14 responsibilities and contributions of the respective cities,
15 villages and incorporated towns and counties; (d) Whether the
16 financing shall be by service charges to be collected from
17 persons, firms, and corporations receiving service, by tax
18 levies, or both; (e) The term of the contract which shall be
19 not less than one year nor more than 30 years: Provided, such
20 contract may be modified from time to time as conditions may
21 warrant, may be extended for periods not exceeding 30 years,
22 may be opened to admit additional cities, villages,
23 incorporated towns or counties and may be changed to permit the
24 withdrawal of any participant on such conditions as shall be
25 agreed to by all of the participants; (f) If the contracting
26 parties so desire, an undertaking that they will provide by

1 ordinance, license, contract or other means that the methods of
2 disposal employed within any municipality with more than
3 130,000 but less than 2,000,000 population, or within any
4 municipality which is a signatory to a plan providing for the
5 management of solid waste generated by more than one
6 municipality or county, shall be the exclusive methods of
7 disposal to be allowed within their respective jurisdictions,
8 unless the exclusive methods may displace competition or
9 ~~notwithstanding the fact that competition may be displaced or~~
10 ~~that such ordinance or agreement~~ may have an anti-competitive
11 effect; and (g) Such other provisions as shall be deemed
12 necessary to effectuate a workable system of collection and
13 disposal or solely of collection or solely of disposal of
14 garbage, refuse, and ashes.

15 The corporate authorities of any city, village, or
16 incorporated town and the governing body of any county entering
17 into any such joint exercise of powers shall appoint a
18 committee of no more than 3 of its own members to make
19 continuing studies of the operations of such joint exercise of
20 powers. This committee shall also meet as necessary with the
21 committees appointed by the other contracting parties and all
22 of such committees shall together constitute a joint committee
23 on garbage and refuse disposal. Such joint committee shall make
24 recommendations necessary for the improvement of the garbage,
25 refuse and ashes collection and disposal services or collection
26 service or disposal service alone as the case may be, and shall

1 prepare such rules and regulations as it may from time to time
2 deem necessary. The corporate authorities may adopt such rules
3 and regulations by ordinance and may provide penalties for the
4 violation thereof. The committee chosen by each of the
5 contracting parties shall have a single vote in all activities
6 of the joint committee.

7 (Source: P.A. 84-963.)