



## 102ND GENERAL ASSEMBLY

### State of Illinois

### 2021 and 2022

#### HB0342

Introduced 1/29/2021, 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 with respect to the disposition of garbage, refuse, and ashes from commercial location customers or may have an anti-competitive effect. Limits home rule powers. Makes conforming changes.

LRB102 04379 AWJ 14397 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  
15 methods may displace competition with respect to the  
16 disposition of garbage, refuse, and ashes from commercial  
17 location customers or. ~~Such ordinance may be enacted~~  
18 ~~notwithstanding the fact that competition may be displaced or~~  
19 ~~that such ordinance~~ may have an anti-competitive effect. Such  
20 methods may include, but need not be limited to land fill,  
21 feeding of garbage to hogs, incineration, reduction to  
22 fertilizer, or otherwise. Salvage and fertilizer or other  
23 matter or things of value may be sold and the proceeds used for

1 the operation of the system. Material that is intended or  
2 collected to be recycled is not garbage, refuse or ashes. A  
3 municipality with a population of less than 1,000,000 shall  
4 not provide by ordinance for any methods that award a  
5 franchise for the collection or final disposition of general  
6 construction or demolition debris, except as allowed under  
7 Section 11-19-1.

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

9 (65 ILCS 5/11-19-5.5 new)

10 Sec. 11-19-5.5. Exclusive contract or franchise.  
11 Notwithstanding any other provision of law, a municipality may  
12 not enter into a contract or franchise under this Division  
13 exclusively with one provider of disposal services or provide  
14 for an exclusive method or methods for the disposition of  
15 garbage, refuse, or ashes if the exclusive method or methods  
16 may displace competition with respect to the disposition of  
17 garbage, refuse, and ashes from commercial location customers  
18 or may have an anti-competitive effect.

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

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

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

1 incorporated towns or counties and may be changed to permit  
2 the withdrawal of any participant on such conditions as shall  
3 be agreed to by all of the participants; (f) If the contracting  
4 parties so desire, an undertaking that they will provide by  
5 ordinance, license, contract or other means that the methods  
6 of disposal employed within any municipality with more than  
7 130,000 but less than 2,000,000 population, or within any  
8 municipality which is a signatory to a plan providing for the  
9 management of solid waste generated by more than one  
10 municipality or county, shall be the exclusive methods of  
11 disposal to be allowed within their respective jurisdictions,  
12 unless the exclusive methods may displace competition with  
13 respect to the disposition of garbage, refuse, and ashes from  
14 commercial location customers or ~~notwithstanding the fact that~~  
15 ~~competition may be displaced or that such ordinance or~~  
16 ~~agreement~~ may have an anti-competitive effect; and (g) Such  
17 other provisions as shall be deemed necessary to effectuate a  
18 workable system of collection and disposal or solely of  
19 collection or solely of disposal of garbage, refuse, and  
20 ashes.

21 The corporate authorities of any city, village, or  
22 incorporated town and the governing body of any county  
23 entering into any such joint exercise of powers shall appoint  
24 a committee of no more than 3 of its own members to make  
25 continuing studies of the operations of such joint exercise of  
26 powers. This committee shall also meet as necessary with the

1 committees appointed by the other contracting parties and all  
2 of such committees shall together constitute a joint committee  
3 on garbage and refuse disposal. Such joint committee shall  
4 make recommendations necessary for the improvement of the  
5 garbage, refuse and ashes collection and disposal services or  
6 collection service or disposal service alone as the case may  
7 be, and shall prepare such rules and regulations as it may from  
8 time to time deem necessary. The corporate authorities may  
9 adopt such rules and regulations by ordinance and may provide  
10 penalties for the violation thereof. The committee chosen by  
11 each of the contracting parties shall have a single vote in all  
12 activities of the joint committee.

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