



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5666

by Rep. Anthony DeLuca

SYNOPSIS AS INTRODUCED:

New Act

65 ILCS 5/11-19-1

415 ILCS 15/13 new

from Ch. 24, par. 11-19-1

Creates the Illinois Solid Waste Hauling and Recycling Program Act. Provides that any person who engages in the business of collecting or hauling garbage, municipal waste, recyclable material, landscape waste, brush, or other refuse operating in specified counties or municipalities shall offer the collection of recyclable materials from any commercial business, commercial property, or institutional facility. Provides that recyclable materials collected by a hauler within a county shall not be deposited into a landfill or incinerator unless all reasonable efforts have been made by the hauler to sell those recyclable materials to a processor or end user. Provides that counties and municipalities may require haulers operating within their boundaries to obtain license decals. Requires recycling centers or recycling center operators to report to the Illinois Environmental Protection Agency. Provides that the new requirements apply only to contracts for collecting or hauling of garbage, municipal waste, recyclable material, landscape waste, brush, or other refuse entered into, renewed, or extended on or after the effective date of the Act. Provides that a home rule unit may not regulate haulers in a manner less restrictive than the regulation of haulers under the Act. Amends the Illinois Municipal Code. Provides that the contract provisions of the Act are subject to the provisions of the Illinois Solid Waste Hauling and Recycling Program Act, and apply only to contracts or franchises regulated by the Illinois Solid Waste Hauling and Recycling Program Act awarded prior to the effective date, provided that the contract is not modified to cover additional categories of refuse, waste, or material. Amends the Solid Waste Planning and Recycling Act. Provides that the Act is subject to the provisions of the Illinois Solid Waste Hauling and Recycling Program Act. Effective immediately.

LRB098 20243 MGM 55609 b

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
5 Illinois Solid Waste Hauling and Recycling Program Act.

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

8 "Agency" means the Illinois Environmental Protection
9 Agency.

10 "Applicant" means any Person applying for a solid waste
11 hauling license under this Act.

12 "County" means a county in Illinois having a population of
13 3,000,000 or more, and any county that is contiguous to that
14 county.

15 "General construction or demolition debris" has the
16 meaning ascribed to that term in Section 3.160 of the
17 Environmental Protection Act.

18 "Hauler" means any person who engages in the business of
19 collecting or hauling garbage, municipal waste, recyclable
20 material, landscape waste, brush, or other refuse on a
21 continuous and regular basis, and makes multiple scheduled
22 collections per month within a county.

23 "Landscape waste" means all accumulations of grass or

1 shrubbery cuttings, leaves, tree limbs, and other materials
2 accumulated as the result of the care of lawns, shrubbery,
3 vines, and trees.

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

9 "Municipality" means a municipality, as defined in Section
10 1 of Article VII of the Illinois Constitution, that is located
11 either partially or wholly within the boundaries of a county as
12 defined in this Section.

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

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

22 "Recycling center" means a site or a facility that accepts
23 only segregated, nonhazardous, nonspecial, homogenous,
24 nonputrescible materials, such as dry paper, glass, cans or
25 plastics for subsequent use in the secondary materials market.

26 "Recyclable material" means material that is separated

1 from municipal waste for the purpose of recycling, including,
2 but not limited to, ferrous metal cans, aluminum containers,
3 glass, plastics including HDPE or PET containers and plastics
4 #3 through #7, newsprint, corrugated paper, junk mail,
5 magazines, office paper, and boxboard.

6 Section 10. Collection of recyclable materials.

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

24 (b) Recyclable materials collected by a hauler within a
25 county shall not be deposited into a landfill or incinerator

1 unless all reasonable efforts have been made by the hauler to
2 sell those recyclable materials to a processor or end user.

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

8 Section 15. Compliance.

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

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

17 Section 20. Recyclable materials reporting. Beginning
18 January 15, 2015, and each January 15 and July 15 thereafter, a
19 recycling center, a recycling center operator, or a facility
20 that accepts exclusively general construction or demolition
21 debris pursuant to Section 22.38 of the Act must provide a
22 report to the Agency, on forms provided by the Agency, that
23 includes: (i) the site name, the owner of the recycling center
24 or general construction or demolition debris facility, and the

1 semi-annual period for which the summary applies; and (ii) the
2 total quantity of recyclable materials or general construction
3 or demolition debris received during the preceding semi-annual
4 period, in tons or cubic yards.

5 Section 25. Applicability.

6 (a) Nothing in this Act shall apply to a contract or
7 franchise, entered into prior to the effective date of this
8 Act, for collecting or hauling garbage, municipal waste,
9 recyclable material, landscape waste, brush, general
10 construction or demolition debris, or other refuse, waste, or
11 material from non-residential locations, nor to any such
12 contracts that have been amended, extended, or renewed either
13 before or after the effective date of this Act.

14 (b) The provisions of this Act apply only in a county
15 having a population of 3,000,000 or more, and in any county
16 that is contiguous to that county. However, nothing in this Act
17 shall apply to a municipality having a population of 2,000,000
18 or more.

19 (c) On or after the effective date of this Act, no
20 municipality, other than as described in subsection (d) of this
21 Section, shall have the authority to award a contract or
22 franchise for collecting or hauling garbage, municipal waste,
23 recyclable material, landscape waste, brush, or general
24 construction or demolition debris or other refuse, waste, or
25 material from non-residential locations.

1 (d) The provisions of subsection (c) of this Section shall
2 not apply to a contract or franchise that, prior to the
3 effective date of this Act, was awarded by a municipality
4 pursuant to the provisions of Section 11-19-1 of the Municipal
5 Code, nor to any such contracts that have been extended or
6 renewed either before or after the effective date of this Act,
7 provided that the contract is not modified to cover additional
8 categories of refuse, waste, or material.

9 Section 30. Home Rule. A home rule unit may not regulate
10 haulers in a manner less restrictive than the regulation of
11 haulers by the State under this Act. This Act is a limitation
12 under subsection (i) of Section 6 of Article VII of the
13 Illinois Constitution on the concurrent exercise by home rule
14 units of powers and functions exercised by the State.

15 Section 35. The Illinois Municipal Code is amended by
16 changing Section 11-19-1 as follows:

17 (65 ILCS 5/11-19-1) (from Ch. 24, par. 11-19-1)

18 Sec. 11-19-1. Contracts.

19 (a) Any city, village or incorporated town may make
20 contracts with any other city, village, or incorporated town or
21 with any person, corporation, or county, or any agency created
22 by intergovernmental agreement, for more than one year and not
23 exceeding 30 years relating to the collection and final

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

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

1 municipality that the municipality is able to identify through
2 its records; and (iii) providing at least 30 days' public
3 notice of the hearing.

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

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

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

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

1 administering the franchise program.

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

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

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

18 (f) This Section is subject to the provisions of the
19 Illinois Solid Waste Hauling and Recycling Program Act, and
20 applies only to: (1) contracts or franchises awarded prior to
21 the effective date of this amendatory Act of the 98th General
22 Assembly, and (2) such contracts that have been amended,
23 extended, or renewed either before or after the effective date
24 of this amendatory Act of the 98th General Assembly, provided
25 that the contract is not modified to cover additional
26 categories of refuse, waste, or material.

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

2 Section 40. The Solid Waste Planning and Recycling Act is
3 amended by adding Section 13 as follows:

4 (415 ILCS 15/13 new)

5 Sec. 13. Illinois Solid Waste Hauling and Recycling Program
6 Act. This Act is subject to the provisions of the Illinois
7 Solid Waste Hauling and Recycling Program Act.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.