

Public Act 098-1079

HB5666 Enrolled

LRB098 20243 MGM 55609 b

AN ACT concerning local government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

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

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

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

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

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

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

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

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

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

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

Section 10. Collection of recyclable materials.

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

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

(b) Recyclable materials collected by a hauler within a county or municipality 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a-10) Beginning at the conclusion of the 36-month reporting period and thereafter, and upon written request of the municipality, each licensed hauler shall, for every 6-month period, report to the municipality (i) the number of non-residential locations served by the hauler in the municipality and the number of non-residential locations

contracting with the hauler for the recyclable materials collection service pursuant to Section 10 of the Solid Waste Hauling and Recycling Program Act, (ii) an estimate of the quantity of recyclable materials, in tons, collected by the hauler in the municipality from non-residential locations contracting with the hauler for recyclable materials collection service pursuant to Section 10 of the Solid Waste Hauling and Recycling Program Act, and (iii) an estimate of the quantity of municipal waste, in tons, collected by the hauler in the municipality from those non-residential locations. All reports for that 6-month period shall be filed with the municipality by the hauler on or before the last day of the month following the end of the 6-month reporting period. Within 15 days after the last day for licensed haulers to file such reports, the municipality shall post on its website: (i) the information provided by each hauler pursuant to this subsection (a-10), without identifying the hauler; and (ii) the aggregate number of non-residential locations served by all licensed haulers in the municipality and the aggregate number of non-residential locations contracting with all licensed haulers in the municipality for the recyclable materials collection service under Section 10 of the Solid Waste Hauling and Recycling Program Act.

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

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

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

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

(b-10) If a municipality has not awarded a franchise within 210 days after the date that a request for proposal is issued pursuant to subsection (b), then the municipality must adhere

to all of the requirements set forth in subsections (b) and (b-5).

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

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

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

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

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

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

(415 ILCS 15/13 new)

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

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

Effective Date: 8/26/2014

