

House Bill No. 967

An act relating to Manatee County; authorizing and empowering the Board of County Commissioners of Manatee County to provide for the collection and disposal of garden trash, to impose monthly collection service charges on all improved real property, and to grant franchises therefor in unincorporated communities; authorizing the board to prescribe and collect fees therefor; authorizing the board to adopt rules and regulations and create districts for such purposes; revising provisions relating to filing of applications for franchises with the board; providing for forfeitures, penalties, and violations; requiring persons, firms, or corporations to whom franchises are granted to give performance bond; providing for manner and consideration for granting franchises; repealing chapter 85-457, Laws of Florida, relating to the collection and disposal of solid waste and junk; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Chapter 85-457, Laws of Florida, is amended to read:

Section 1. Authority to adopt rules and regulations.—The Board of County Commissioners of Manatee County is authorized to adopt reasonable rules and regulations, found to be necessary for the protection of public health, covering the storage, collection, transportation, and disposal of solid waste, ~~and junk, and garden trash~~. Any person, firm, or corporation violating any of the provisions of said rules or regulations shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished as otherwise provided by law.

Section 2. Franchises; generally.—

(1) For the purpose of promoting the health and general welfare of the ~~community communities~~, as hereinafter provided, the Board of County Commissioners of Manatee County, is hereby authorized and empowered to provide for the collection and disposal of solid waste, ~~and junk, and garden trash~~ and to grant franchises ~~therefor~~ ~~therefore~~ in such districts in said county as may be designated by it lying outside the boundaries of any municipality, to persons, firms, or corporations ~~applying therefore~~, for the purpose of collection, removal, and disposal of solid waste, ~~and junk, and garden trash~~ in any such districts. The board of county commissioners may designate and create districts in such size, number, shape, or area as it may from time to time deem best suited to carry out the ~~purposes~~ ~~purpose~~ of this act.

(2) The franchise may be exclusive or nonexclusive and shall take effect after ~~full the final approval of a resolution granting the franchise and the~~ execution of a franchise agreement, and may continue in force and effect for a term stated in said agreement, not to exceed 15 years after the effective date of the franchise agreement. The franchise agreement may provide for

renewal thereof for up to an additional 15-year period following a full public hearing during which the grantees' performance and all terms and conditions of the franchise agreement may be reviewed, altered, or amended by the county.

Section 3. Petitions ~~Application petition~~; notice; duty of county commission.—

(1) Upon the creation of any district or upon the cancellation, expiration, or nonrenewal of any existing franchise in any district, the board of county commissioners shall cause to be published a notice in a newspaper of general circulation in the county that petitions from interested persons, firms, or corporations seeking to acquire a franchise will be considered.

(2) The notice shall specify the area or district for which the right, privilege, or franchise may be granted and shall state whether the franchise sought shall be exclusive or nonexclusive, what service is intended to be furnished, and the period of time for which the franchise may be granted.

~~(3) All applications to be considered must be filed with the board of county commissioners by filing with the circuit court clerk within 20 days following the publication of notice.~~

~~(4) After the filing of such application with the board of county commissioners, the board shall consider the applications and grant or deny them.~~

Section 4. Granting; bond; bids; monthly payments by grantee; disposition.—

(1) In the interest of fairness, prior to considering the petitions ~~applications~~ filed, the board of county commissioners shall establish legal, financial and technical criteria and other criteria to be used in evaluating said petitions applications. All such criteria shall be uniformly applied. Consideration may be given to those petitioners ~~applicants~~ who have established records of satisfactory past performance of franchise agreements. The county shall award franchises pursuant to competitive bidding or competitive negotiation or requests for proposals ~~proposal~~, or any other arms-length negotiation or combination thereof, provided however, that all activity under this section shall occur in accordance with chapters 119 and 286, Florida Statutes.

(2) In the event the board of county commissioners shall determine to grant such franchise, it shall do so on such reasonable terms and conditions as it shall deem consider for the best for ~~interest of~~ the community. However, the board shall require, prerequisite to or concurrently with the granting of any such franchise, that the person, firm, or corporation to whom such franchise is granted or awarded, give a performance bond, in an amount to be fixed by said board and payable to the Board of County Commissioners of Manatee County and conditioned that such franchise, and franchise agreement, and all the terms and provisions thereof including such rules and regulations as may be promulgated by the board regulating and controlling the collection and disposal of garbage in said county, shall be performed and complied with.

(3) ~~In those districts wherein more than one person, firm, or corporation seeks to be awarded a franchise, the board shall be authorized to receive and accept bids from applicants who apply for franchise on areas which may be sought by more than one applicant and said board may accept the bid which it deems to be in the best interest of the county, or it may deny the same.~~

(4) In all franchises or grants given pursuant to the provisions of this act, the board of county commissioners may require as consideration for each, the payment by the franchise holder to the county, in monthly installments of a fee such sum or sums as it may deem reasonable, taking into consideration the areas and population of the district for which such franchise is granted, and all such fees sums collected shall be paid into the general fund of the county and used and expended by the board without budgetary appropriations, for the purposes of:

(a) Acquiring by purchase, lease or otherwise, solid waste, junk, and garden trash garbage disposal facilities;

(b) Operating such disposal facilities;

(c) Enforcing the franchise agreements and the various rules and regulations adopted pursuant to this act; or

(d) ~~Any combination of the above and the operations thereof, and for the regulation and enforcement of this law.~~

(5) The board may provide for payment and collection of all fees to be made directly to the county by those served and may provide in the franchise agreements for a method of payment to the franchise holder for the services rendered pursuant to the franchise grant.

(6) In the creation of districts, the action of the board of county commissioners shall be expressed in a resolution, by it adopted, which resolution shall contain a description of the areas or district to be covered by the franchise,[;] whereupon such described areas or districts shall be deemed created as of the time fixed in such resolution.

Section 5. Services to be in accordance with franchises, rules, etc.—After the creation of any such district, the collection, removal, and disposal of solid waste, and junk, and garden trash therein shall be accomplished only in accordance with the terms and provisions of the franchise agreement and with such rules, regulations, and rates, ~~and regulations~~ as the board of county commissioners may from time to time promulgate and adopt.

Section 6. Forfeiture.—In the event the grantee of any franchise obtained under this act (article), shall violate any of the terms, conditions or provisions of such franchise agreement, or shall violate any of the rules and regulations promulgated by the board of county commissioners pursuant thereto, and shall be in default thereof, after a 15-day notice shall have been given by the chairman of the board of county commissioners, to desist from such violations, then such grantee shall be deemed to have forfeited said franchise and the board may avail itself of any lawful remedies such forfeit- ~~ure shall be declared by the judge of the circuit court for the county in which~~

said franchise was given, in such manner and form as is now or may in the future be provided by law.

Section 7. Violations, penalty; presumption.—

(1) It shall be unlawful for any person, firm or corporation to carry on the business of collection, removal, ~~or and~~ disposal of solid waste, ~~and~~ junk, or garden trash in any ~~built-up~~ area or district in said county as may be designated by said board of county commissioners, without first obtaining a franchise as authorized by this act (article); and any such person, firm, or corporation violating any of the provisions of this act (article) shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished, as otherwise provided by general law for conviction of a misdemeanor.

(2) The collection, removal, and disposal of more than 6 20-gallon cans of solid waste, ~~and~~ junk, or garden trash per week by any person, firm, or corporation shall constitute, prima facie evidence of carrying on said business, unless said ~~solid garbage, refuse, or waste~~ or junk is the accumulation of the ~~individual, residence, home,~~ or business of the person, firm, corporation, or agent thereof, collecting, removing, or disposing of the same, or ~~garden trash yard clippings~~ being removed by a bona fide lawn service.

Section 8. Monthly collection charges; delinquent payments.—

(1) The county may impose monthly collection service charges for the collection of solid waste, ~~and~~ junk, and garden trash on all improved real property within the unincorporated county except as may be excluded by the county by ordinance, resolution, or regulation.

(2) The occupancy or existence of any place of abode or any place of business ~~by any person, firm, or corporation~~ shall be prima facie evidence that solid waste, ~~and~~ junk, and garden trash is being produced and is accumulating upon such premises and that service charges for the collection and disposal thereof are due to the county.

(3) The county may provide by ordinance or resolution for penalties for delinquent payments of collection service charges and may further provide that in the event such premises shall be served by the water, ~~or~~ sanitary sewer, or reclaimed water systems system of the county, such services may cease to such premises until after all delinquent charges and penalties shall have been paid.

(4) The provisions of this section of this act shall prevail over any inconsistent special or general law including specifically the provisions contained in ~~SB 126 filed during the 1985 Legislative Session should such bill be enacted and the contemplated new section 125.485, Florida Statutes, become law.~~

Section 9. Chapter ~~85-457~~ ~~57-1552~~, Laws of Florida, as amended by chapters ~~67-1672 and 67-1678~~, Laws of Florida, is hereby repealed.

Section 10. The powers conferred by this act shall be in addition and supplemental to the existing powers of the county and shall not be construed

as repealing any of the provisions of any other laws, general, special, or local except as herein provided.

Section 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 12. It is the intent of this act to provide the mechanisms to the Manatee County Board of County Commissioners to enact such resolutions and ordinances as they deem proper for the collection and disposal of solid waste, and junk, and garden trash.

Section 2. This act shall take effect July 1, 2000.

Approved by the Governor May 22, 2000.

Filed in Office Secretary of State May 22, 2000.