

## House Bill No. 945

An act relating to the Solid Waste Authority of Palm Beach County, a dependent special district in Palm Beach County; codifying the Authority's charter, chapter 75-473, Laws of Florida, as amended, pursuant to s. 189.429, F.S.; providing legislative intent; amending, codifying, and reenacting all special acts relating to the Solid Waste Authority of Palm Beach County as a single act; providing a short title; providing declaration of legislative intent; providing for application to incorporated and unincorporated areas; providing definitions; providing purposes and powers; providing exemption from taxation; providing prohibition, permits, and penalty; providing enforcement; providing injunctive relief; providing judicial review; providing severability; repealing all prior special acts related to the Authority; providing an effective date.

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

Section 1. Pursuant to section 189.429, Florida Statutes, this act constitutes the codification of all special acts relating to the Solid Waste Authority of Palm Beach County. It is the intent of the Legislature in enacting this law to provide a single, comprehensive special act charter for the Solid Waste Authority of Palm Beach County, including all current legislative authority granted to the Authority by its several legislative enactments and any additional authority granted by this act.

Section 2. Chapters 75-473, 77-626, 79-536, 79-539, 79-542, 84-501, 84-502, 86-433, 88-544, 91-334, 93-345, and 94-462, Laws of Florida, relating to the Solid Waste Authority of Palm Beach County, are codified, reenacted, amended, and repealed as herein provided.

Section 3. The charter for the Solid Waste Authority of Palm Beach County is re-created and reenacted to read:

Section 1. Short title.—This act may be known and cited as the “Palm Beach County Solid Waste Act.”

Section 2. Declaration of legislative intent.—In order to enhance the beauty and quality of our environment, conserve our natural resources, prevent the spread of disease and creation of nuisances, protect the public health, safety, and welfare, and provide a coordinated resource recovery and waste management program for Palm Beach County, it is necessary to form a countywide authority for the management of solid waste to meet the expanding problems related to the processing and disposal of solid waste within Palm Beach County and to:

(1) Provide for the safe and sanitary processing and disposal of solid waste.

(2) Provide a coordinated countywide program for the management of hazardous waste and control of solid waste processing and disposal in coop-

eration with federal, state, and local agencies responsible for the prevention, control, or abatement of air, water, and land pollution.

(3) Require the municipalities and the county to plan for and develop an adequate solid waste collection system.

Section 3. Creation of countywide solid waste authority.—In order to effectuate the intent and purpose of this act as set forth in section 2, the Solid Waste Authority of Palm Beach County is created as a dependent special district. Its board shall consist of the seven members of the Board of County Commissioners of Palm Beach County. A quorum of the board shall be four members.

Section 4. Application to incorporated and unincorporated areas.—This act shall apply to both the incorporated and unincorporated areas of Palm Beach County.

Section 5. Definitions.—As used in this act, unless some other meaning is plainly intended:

(1) “Act” means this act and all amendments thereto.

(2) “Authority” means the Solid Waste Authority of Palm Beach County.

(3) “Clerk” means Clerk of the Circuit Court of Palm Beach County, Florida.

(4) “Cost of acquisition and/or construction” means the cost of acquiring, constructing, reconstructing, improving, extending, equipping, and furnishing any resource recovery and solid waste management facilities, including the cost of demolishing, removing, or relocating any buildings, structures, or utilities on lands acquired or to be acquired, including the cost of acquiring lands to which such buildings, structures, or utilities may be moved or relocated, the cost of all labor and materials, the cost of financing charges, discount on the purchase price of bonds otherwise permitted hereunder, and interest on the bonds of the Authority prior to, during, and for a period not exceeding 2 years after completion thereof, payments under and fees and expenses in connection with any derivative agreements, the cost of establishing and funding initial reserves, the cost of engineering, financial, and legal services plans, specifications, studies, surveys, estimates of cost and of revenues, and other expenses necessary or incidental to determining the feasibility or practicability of any such construction or acquisition, administrative expenses, and such other costs and expenses as may be necessary or incidental to such acquisition, construction, reconstruction, improvement, extension, equipping, or furnishing, the financing thereof, placing such resource recovery and solid waste management facilities in operation, and the issuance of bonds under this act.

(5) “County” means Palm Beach County, Florida.

(6) “Department” means the Department of Environmental Protection or any successor agency performing a like function.

(7) “Derivative agreements” means contracts commonly known as investment contracts, interest rate swap agreements, or contracts providing for payments based on levels of or changes in interest rates, or contracts to exchange cash flows or a series of payments, to hedge payment, rate, spread, or similar exposure, which the governing body of the Authority determines to be necessary, desirable, or appropriate to achieve a desirable effective interest rate in connection with bonds, notes, or bond anticipation notes issued by the Authority.

(8) “Director” means the Executive Director of the Solid Waste Authority of Palm Beach County or his or her duly authorized representative.

(9) “Disposal” means the disposition of solid waste by resource recovery, processing, recycling, or the placing of solid waste materials on the land for final disposition, or any combination thereof.

(10) “Fiscal year” means the year beginning October 1 of each year and ending September 30 of the following year.

(11) “General obligation bonds” means bonds or other obligations secured by the full faith and credit and taxing power of the Authority and payable from ad valorem taxes levied and collected on all taxable property in Palm Beach County, without limitation of rate or amount, and may be additionally secured by the pledge of either or both the proceeds of special assessments levied against benefited property or revenues derived from solid waste disposal systems.

(12) “Hazardous waste” has the same meaning as the term is defined in section 403.703(21), Florida Statutes, or any successor law or regulation.

(13) “Municipality” means all incorporated municipalities or special taxing districts exercising municipal powers in relation to collection and disposal of solid waste, lying and being in Palm Beach County, Florida.

(14) “Person” or “persons” means any and all persons, natural or artificial, including any individual, firm, or association, any facility, or any municipal or private corporation organized or existing under the laws of the State of Florida or any other state and any county or governmental agency of this state or the Federal Government.

(15) “Processing” means the act of modifying or altering the nature of solid waste materials to facilitate reuse, transfer, transport, and disposal, including, but not limited to, systems employing physical, thermal, organic, or chemical techniques.

(16) “Property appraiser” means the Property Appraiser of Palm Beach County, Florida.

(17) “Recycling” means any process by which solid waste materials are recovered and reused in manufacturing, agricultural, power production, and other processes.

(18) “Resource recovery” means the process by which materials in solid waste retaining useful physical or chemical properties are reused or recycled for the same or other purposes, including use as an energy source.

(19) "Revenue bonds" means bonds or other obligations of the Authority secured by and payable from the rates, fees, charges, and other income collected by the Authority from the users of its resource recovery and solid waste management facilities, or by pledge of the full faith and credit of the Authority, or by a combination thereof.

(20) "Solid waste" means garbage, sewage, sludge, septage, rubbish, refuse, and other discarded solid or liquid materials resulting from domestic, industrial, commercial, agricultural, and governmental operations, but does not include solid or dissolved materials in domestic sewage, storm drainage, or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents, dissolved materials in irrigation return flows, or other common water pollutants.

(21) "Solid waste system" or "resource recovery and solid waste management facilities" or "project" means any plant, facility, or property and additions, extensions, and improvements thereto, at any time constructed or acquired as part thereof, useful or necessary or having the capacity for future use for resource recovery or solid waste management and, without limiting the generality of the foregoing, shall include vehicles used for transport from transfer stations to treatment sites and incinerators for the purposes of reducing the volume of or disposing of solid waste by burial, as well as proper disposal of residue from incineration, and shall include all real and personal property and any interest therein, rights, easements, and franchises of any nature whatsoever, and equipment, machinery, furnishings, fixtures, and replacements, relating to any such solid waste system and necessary or convenient for the operation thereof.

(22) "Tax collector" means the Tax Collector of Palm Beach County, Florida.

(23) "Transport" means the act of movement of solid waste materials to facilitate processing, reuse, and disposal.

(24) "Waste management" means the systematic control of the generation, storage, collection, transport, treatment, processing, recycling, recovery, and disposal of solid waste.

Section 6. Purposes and powers.—For the purposes of this act, all of Palm Beach County is deemed to be a special district. In addition to other powers, duties, and responsibilities necessary to carry out the provisions of this act, the Authority shall have the power to:

(1) Adopt and from time to time thereafter alter, rescind, modify, or amend rules, guidelines, and orders necessary for its operation in accordance with chapter 403, Florida Statutes, and all successor laws. No such rules or amendments thereto shall be adopted or become effective until after a public hearing has been held by the Authority pursuant to notice published in a newspaper of general circulation in the county at least 21 days prior to the hearing. When approved by the Authority, such rules shall have the force and effect of law. Nothing in this act shall be construed so as to prevent the Authority from adopting rules which are more strict and extensive than those imposed by the department.

(2) Adopt a resource recovery and waste management program for Palm Beach County that shall provide for the transportation, storage, separation, processing, recovery, recycling, or disposal of solid waste generated or existing within the county and modify and update such program or plan as necessary or as may be required by law.

(3) Acquire, at its discretion, personal or real property or any interest therein by gifts, lease, eminent domain, or purchase. The Authority may enter upon any land or water for the purpose of making surveys and may exercise the right of eminent domain whenever public necessity or convenience requires in accordance with chapters 73 and 74, Florida Statutes, and other applicable law.

(4) Appoint an executive director to be responsible to the Authority and who shall serve at its pleasure. There shall be such other officers and employees as may be provided by the Authority. The officers shall be appointed or removed by the executive director subject to confirmation by the Authority. The employees shall be appointed and removed by the executive director. The Authority shall fix the salary of the executive director and shall have, but may delegate to the executive director, the power to fix the salaries of all other officers and employees of the Authority. The Authority shall also have the power to employ or appoint engineers, accountants, attorneys, and such other personnel as may be required for the operation and management of the Authority and to fix their compensation.

(5) Require surety bonds for any of the officers and employees in such amounts as the Authority deems necessary. The premiums for the bonds shall be paid in the same manner as any other operating expense.

(6) Sue and be sued, implead and be impleaded, and complain and defend in all courts.

(7) Adopt, use, and alter a corporate seal.

(8) Acquire, construct, reconstruct, improve, maintain, equip, furnish, and operate at its discretion such resource recovery and waste management facilities as are required to carry out the purposes and intent of this act and to meet the requirements of chapter 403, Florida Statutes, and other applicable law.

(9) Conduct studies, develop programs, provide continuing management and monitoring of waste projects, programs, and facilities directly or indirectly affecting the solid waste management system in Palm Beach County, and contract, for such periods as may be agreed upon by the parties, with governmental agencies, individuals, public or private corporations, municipalities, or any other person in carrying out the purposes of this act and the requirements of chapter 403, Florida Statutes, and other applicable law.

(10) Fix, alter, charge, and establish reasonable rates, fees, and other charges for the facilities provided by the Authority, including, but not limited to, planning, permitting, inspection, collection, enforcement, and disposal site developing and operation, which rates, fees, and charges must be

sufficient to cover all costs for said normal functions and facilities, including, but not limited to, permits, fees, and disposal costs.

(11) Without limitation, borrow money and issue evidence of indebtedness and accept property, gifts, or grants or loans of money from the Federal Government, state government, and other sources, public or private, which loans and grants shall be expended in accordance with the purposes and provisions of this act.

(12) Issue revenue bonds.

(a) The Authority shall have the power and is hereby authorized to issue revenue bonds for the purpose of paying all or part of the costs of acquisition and/or construction of resource recovery and waste management facilities. The issuance of such revenue bonds shall be authorized by resolution of the Authority, which resolution may be adopted at a regular or special meeting by a majority vote of members voting thereon and at the same meeting at which it is introduced. Such revenue bonds may be issued in one or more series and shall bear such date or dates of issuance, bear interest at such rate or rates, not exceeding the maximum rate permitted under section 215.84, Florida Statutes, or any successor statute, mature at such time or times, not exceeding 40 years from their respective dates of issuance, be subject to such terms of redemption, with or without premium, be issued in such form, registered or not, with or without interest coupons, entitle the holder thereof to such conversion or registration privileges, be executed in such manner, be in such denomination or denominations, be payable in such medium of payment at such place or places, which may be any bank or trust company within or without the state, have such rank or priority, be secured in such manner, and have such other characteristics as may be provided in the resolution of the Authority authorizing the issuance of such bonds or in such subsequent resolutions as the Authority may adopt prior to the issuance of such bonds. All bonds issued under this act shall have and are hereby declared to be and to have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code—Investment Securities Law of the state. The Authority may sell such bonds at private sale and in such manner and for such price or prices as it may determine to be in the best interest of the Authority, but no such bonds shall be sold at a price as will yield to the purchaser thereof income at a rate exceeding the maximum rate permitted under section 215.84, Florida Statutes, or any successor statute, as computed according to the standard tables of bond values. If said bonds are sold at public sale, a notice of such sale shall be published at least once at least 10 days prior to the date of such sale in a newspaper published and circulating in the county and in a financial newspaper or journal circulating in New York City, New York. The Authority may issue interim bonds, notes, certificates, or receipts, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

(b) The Authority shall fix and revise from time to time the rates, fees, or other charges for the services and facilities furnished by the Authority, and such rates, fees, or other charges shall be so fixed and adjusted as to provide sufficient funds to pay the principal of and interest on all bonds

issued as the same become due and payable for such purposes, and including the cost of operating, maintaining, and repairing the facilities of the Authority and all such other payments required by the proceedings providing for the issuance of such bonds. Such rates, fees, or other charges shall not be subject to supervision or regulation by the state, any political subdivision, or any commission, board, or agency.

(c) The Authority, in the issuance of revenue bonds, shall have the authority to pledge all or any part of the revenues derived from the operation of the facilities of the Authority and shall have the power to determine the rank or priority of such pledge of revenues for any purpose, including different issues of bonds, and to grant to the holders of the bonds a lien on all or any part of the revenues prior to the use of such revenues for any other purposes.

(d) All revenues received by the Authority shall be deemed to be trust funds to be held and applied as provided in this act. The Authority may also provide that each issue of bonds or any combined issue of bonds may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank within or without the state. Such trust agreement may pledge or assign the revenues to be received and provide for the rank and priority between different trust agreements for different issues of bonds. The resolution or resolutions providing for the issuance of bonds or such trust agreements may contain such provisions for protecting and enforcing the rights and remedies of the holders of the bonds as may be reasonable and proper, not in violation of the law, including covenants setting forth the duties of the Authority relating to the construction, acquisition, improvement, maintenance, operation, repair, and cost of any project or facility, as is customary in trust agreements or trust indentures securing bonds or debentures of corporations, and may contain such other provisions as the Authority may deem reasonable and proper for the security of the holders of such bonds.

(e) The Authority is also hereby authorized to issue refunding bonds for the purpose of refunding any bonds of the Authority then outstanding, including the payment of any redemption premium thereon, and interest accrued or to accrue to maturity or to the prior redemption of such outstanding bonds, as the case may be, or for the combined purpose of refunding such outstanding bonds and paying the cost of acquisition and/or construction of one or more projects. The issuance of such revenue refunding bonds shall be authorized by resolution of the board of the Authority in the same manner as provided in paragraph (a). Such refunding bonds may be issued to refund such outstanding bonds as they mature and become payable, or as they are called for redemption prior to their stated dates of maturity, and the Authority shall be authorized to invest the proceeds or part of the proceeds of such refunding bonds, pending the dates of maturity of such outstanding bonds or the dates upon which such outstanding bonds are to be called prior to their stated dates of maturity, in such lawful securities as the Authority shall deem desirable, for the purpose of refunding such outstanding bonds in the manner provided in this paragraph. The issuance of such revenue refunding bonds, the maturities and other details thereof, the rights of the holders thereof, the security for the payment thereof, and the rights, duties,

and obligations of the Authority in respect of the same shall be governed by the provisions of this act insofar as the same may be applicable.

(f) The Authority shall also have power to issue notes prior to the issuance of bonds, but such notes shall mature in not less than 3 years and the payment thereof shall be subject to any prior pledge of the revenues of the Authority or any ad valorem taxes of the Authority.

(g) The Authority may also issue bond anticipation notes after the authorization of the issuance of bonds in the manner provided in section 215.431, Florida Statutes, or successor law.

(13) Enter into interest rate swap agreements in connection with tax-exempt bonds and to issue debt to finance payments under such interest rate swap agreements. The use of interest rate swap agreements to reduce borrowing costs will enable the Authority to have flexibility to finance or refinance projects relating to its solid waste system in a more economically efficient manner. The Authority, other special districts, and municipalities already have the express power to enter into interest rate swap agreements and other derivative products with respect to their taxable bonds under the Taxable Bond Act of 1987, part VII, chapter 159, Florida Statutes. The Legislature finds that the ability of the Authority to enter into derivative agreements shall serve a public purpose by reducing interest costs to the Authority and enhancing the marketability of the Authority's bonds, notes, or bond anticipation notes. Further, such derivative agreements afford the Authority the ability to achieve the lowest effective borrowing costs or terms most suitable to the Authority. The provisions of this paragraph are designed to serve a public purpose by providing for the health, safety, welfare, and economic well-being of the people of the county. Further, these provisions are intended to provide express authority to exercise the powers granted hereby and shall not be construed in limitation of any existing powers of the Authority to enter into or carry out any derivative agreements. This paragraph shall be a supplemental and alternative authority to any other provisions of special or general law.

(14) Seek injunctive relief in a court of competent jurisdiction to prevent the violation of this act or any resolution, rule, or regulation adopted pursuant to the powers granted by this act without the necessity of showing of a public nuisance in such legal proceeding.

(15) Sell or otherwise dispose of any byproducts produced by the operation of resource recovery or waste management facilities to any governmental agency, individual, public or private corporation, municipality, or any other person.

(16) Levy ad valorem tax on the taxable property in the special district solely for the purposes of this act and not to exceed 1 mill on the dollar, subject to referendum. Property taxes determined and levied under this section shall be certified by the Authority to the property appraiser and extended, assessed, and collected in accordance with the provisions of chapter 197, Florida Statutes. At any time after making a tax levy under this section and certifying the same to the county and the state, the Authority

may issue tax anticipation notes of indebtedness in anticipation of the collection of such taxes.

(17) When the fees or charges for the services and facilities and any waste disposal or resource recovery facility are not paid when due and payable and are in default for 30 days or more, following written notice to such delinquent customer, discontinue and shut off the supply of the services and facilities of said system to the person, firm, corporation, or other body, public or private, so supplied with such services or facilities until such fees, rates, or charges, including legal interest, penalties, and charges for the shutting off and discontinuance or the restoration of such services or facilities, are fully paid. Such delinquent fees or charges, together with legal interest, penalties, and charges for the shutting off and discontinuance or the restoration of such services or facilities, and reasonable attorney's fees, costs, and other expenses may be recovered by the Authority in a court of competent jurisdiction.

(18) Transfer, sell, or assign to any governmental agency, individual, public or private corporation, municipality, or other person, at whatever terms it deems reasonable, any property which it finds is not needed to carry out the purposes of this act.

(19) As necessary to carry out its resource recovery and/or disposal plans or programs or when necessary to carry out any other provision of this act, require that all wastes collected by public or private agencies from any municipality or unincorporated area of the county be transported to Authority-designated processing and disposal facilities in a manner and form as may be mandated in accordance with this act, particularly paragraphs (2) and (8) of this section. This act shall not be construed to preclude public or private agencies from operating permitted transfer stations, provided that solid waste transferred or transported therefrom shall be delivered to Authority-designated processing and disposal facilities as set forth in this section.

(20) Perform any and all governmental functions of the county, or of any municipality, related to solid waste provided for by general law, including, but not limited to, chapter 403, Florida Statutes, or any successor law, pursuant to written contract or interlocal agreement. For those purposes, the Authority may employ the special assessment procedures contained in sections 7 and 8 of this act. The Palm Beach County Board of County Commissioners shall set for the unincorporated portions of the county all fees necessary to accomplish the purposes of this paragraph, and the governing body of any municipality shall set the required fees for its respective jurisdiction. Any such fees must be sufficient to pay all costs incurred by the Authority in connection with the solid waste services to be provided, including the cost of billing services.

(21) Establish a mandatory collection system for the county and impose reasonable rates, fees, and charges to all users of said system. The Authority may establish annual collection special assessments for users of this collection system in like manner as the disposal assessments provided for in this section or sections 7 or 8.

(22) Grant franchises and contracts, issue permits, or otherwise provide for the collection of solid waste in the county and receive the assignment of such franchises, contracts, and permits, and establish reasonable rates, fees, and charges therefor.

(23) In connection with, or incidental to, the sale and issuance of bonds, enter into any contracts which the Authority determines to be necessary or appropriate to achieve a desirable, effective interest rate in connection with the bonds or notes by means of, but not limited to, contracts commonly known as investment contracts, funding agreements, interest rate swap agreements, currency swap agreements, forward payment conversion agreements, or futures; contracts providing for payments based on levels of or changes in interest rates; contracts to exchange cash flows or a series of payments; or contracts including, without limitation, options, puts, or calls to hedge payment, rate, spread, or similar exposure. Such contracts or arrangements may also be entered into by the Authority in connection with, or incidental to, entering into any agreement which secures bonds or provides liquidity therefor. Such contracts and arrangements shall be made upon the terms and conditions established by the Authority after giving due consideration for the credit worthiness of the counterparties, where applicable, including any rating by a nationally recognized rating service or by any other criteria as may be appropriate.

(24) Notwithstanding the prohibition against extra compensation set forth in section 215.425, Florida Statutes, provide for an extra compensation program, including a lump-sum bonus payment program, to reward outstanding employees whose performances exceed standards, if the program provides that a bonus payment may not be included in an employee's regular base rate of pay and may not be carried forward in subsequent years.

Section 7. Special assessments; method of levy and collection.—Since all improved properties in the county receive a direct, substantial benefit by the provision of solid waste disposal and collection services by the Authority, the Authority shall have the additional power to impose, levy, collect, or have collected, in accordance with the provisions of chapter 197, Florida Statutes or sections 7, 8 or 9 of this charter, the annual disposal special assessments herein authorized and defined as a means of financing the construction and/or acquisition of additions, extensions, and improvements to the solid waste system, the payment of the principal of and interest on bonds issued pursuant to this act, the cost of operating, maintaining, and repairing the solid waste system, and all other payments that are required to be made by the Authority in connection with the purposes of this act.

(1) Definitions.—For the purposes of this section and sections 8 and 9, the following terms shall have the following meanings:

(a) “Addendum to annual disposal special assessments roll” or “addendum” means the list prepared by and confirmed by the Authority each fiscal year containing the same information as the annual disposal special assessment roll as to any parcels of improved real property not incorporated on the corresponding annual disposal special assessment roll and incorporating any changes as to the information specified for any parcel of improved real

property on the corresponding annual disposal special assessment roll, including any additions to or deletions from such annual disposal special assessment roll.

(b) “Annual disposal special assessments” means the annual disposal special assessments imposed upon a parcel or parcels of improved real property for the disposal of solid waste for the applicable fiscal year based upon the classification of the use of such parcel or parcels of improved real property as set forth in the rate resolution.

(c) “Annual disposal special assessment roll” means the list prepared and confirmed by the Authority each fiscal year containing a summary description of each parcel of improved real property, the name and address of the owner of each such parcel as indicated on the records maintained by the property appraiser, and the amount of the annual disposal special assessments applicable to each parcel of improved real property.

(d) “Collection” means, with respect to solid waste services, the process whereby solid waste is removed and transported to a solid waste facility.

(e) “Governmental agencies” means all state, federal, or local agencies or units of government located within the county, including, but not limited to, the School Board of Palm Beach County, all county agencies and departments, all municipalities within the county, all special districts and municipal service taxing units with all or part of their boundaries within the county, and any municipality or special district or other unit of government, the boundaries of which are not within the county but which is the owner of improved real property within the county.

(f) “Improved real property” means all real property located within the county that generates or is capable of generating solid waste and that contains buildings, structures, or other improvements designed or constructed for and capable of use or used for human habitation, human activity, or commercial enterprises.

(g) “Owner” means the person or persons owning an interest in improved real property.

(h) “Rate resolution” means the resolution or resolutions of the Authority described in paragraph (3)(b) of this section and paragraph (2)(b) of section 8 of this charter.

(2) Purpose.—It is the purpose of this section to require all persons within the county and all governmental agencies to use exclusively the solid waste system operated and maintained by the Authority or designated by the Authority for the disposal of all solid waste generated within both the incorporated and unincorporated areas of the county; to establish a schedule of assessments for all improved real property in both the incorporated and unincorporated areas of the county to pay for the cost of financing, operating, and maintaining the solid waste system; to establish the method and procedure for the classification of such improved real property in the establishment of such schedule of annual disposal special assessments; to provide for a method and procedure for the collection of such assessments from the

owners of such improved real property; and to provide for the operation of the solid waste system.

(3) Determination of annual disposal special assessments; public hearing.—On or before October 1 of each year, the Authority shall hold a public hearing for the following purposes:

(a) To adopt a budget for the operation and maintenance of the solid waste system for the ensuing fiscal year, including moneys for the payment of the principal of and interest on bonds and other outstanding or anticipated indebtedness, including all reserves necessary therefor, for the payment of necessary reserves for capital expenditures and the renovation, improvements, and replacements of existing facilities of the solid waste system, for the enforcement and administration of the billing and collection of the annual disposal special assessments provided for hereunder, including necessary reserves for anticipated delinquent or uncollectible annual disposal special assessments, and for the payment of the current operation and maintenance of the solid waste system.

(b) To adopt a rate resolution incorporating a schedule of annual disposal special assessments to impose upon the owners of all improved real property in both the incorporated and unincorporated areas of the county which shall constitute a lien as provided for in paragraph (5) and to establish the classification of the use of such parcel of improved real property in order to provide revenues which, together with other moneys of the Authority lawfully available therefor, shall be sufficient to fund the budget referred to in paragraph (a). The rates established by the Authority in each year under the provisions of the rate resolution shall be sufficient to provide moneys for the purposes described in paragraph (a), and the Authority shall not establish rates over and above the rates that are necessary to comply with the provisions of paragraph (a) and the budgetary requirements of any proceedings of the Authority heretofore or hereafter adopted in connection with the issuance of any of its bonds, notes, or other evidences of indebtedness.

Notice of said public hearing shall be published in a newspaper of general circulation in the county at least twice, with the first publication being at least 20 days prior to the date set for the public hearing. Said public hearing may be continued to a date certain without the necessity of further newspaper advertisement or public notice.

(4) Scope of annual disposal special assessments; discount for early payment; delinquency.—

(a) The annual disposal special assessments incorporated in the rate resolution applicable to each parcel of improved real property shall be the annual disposal special assessments for each such parcel of improved real property for the disposal of all solid waste generated or capable of being generated as determined by the Authority on each such parcel of improved real property during the ensuing fiscal year.

(b) The annual disposal special assessments shall be imposed against the owners of all improved real property in both the incorporated and unincorporated areas of the county if such real property is improved real property on

or before September 1 prior to the fiscal year in which the annual disposal special assessments are imposed.

(c) The owner and description of each parcel of improved real property shall be that designated on the real property records maintained by the property appraiser.

(d) The annual disposal special assessments shall be due and payable 30 days after the mailing of the original annual disposal special assessments billing. On all annual disposal special assessments imposed and collected, discounts for early payment thereof shall be at the rate of 4 percent in the month of November and at any time within 30 days after the mailing of the original annual disposal special assessments billings; 3 percent in the month of December; 2 percent in the month of January; and 1 percent in the month of February. The annual disposal special assessments paid in March shall be without discount. The annual disposal special assessments shall become delinquent if not fully paid by March 31 of the fiscal year for which the annual disposal special assessments are imposed. All delinquent annual disposal special assessments shall bear an initial penalty of 3 percent of the full amount of the annual disposal special assessments if not paid by March 31 of the fiscal year for which the annual disposal special assessments are imposed and an additional penalty of 1 percent per month on the delinquent principal amount on the first day of June and on the first day of each month thereafter until the annual disposal special assessments are paid in full.

(5) Annual disposal special assessments shall constitute a lien on improved real property.—All annual disposal special assessments imposed against the owners of improved real property shall constitute, and are hereby imposed as, liens against such improved real property as of October 1 of the fiscal year for which the annual disposal special assessments are imposed. Until fully paid and discharged or barred by law, the annual disposal special assessments shall be prior to all other liens, except that such liens shall be on parity with a lien of state, county, and municipal taxes, and any lien for charges for services created pursuant to section 159.17, Florida Statutes. If any annual disposal special assessment liens become delinquent by not being fully paid by March 31 of the fiscal year for which the annual disposal special assessments are imposed and remain delinquent, the Authority shall cause to be prepared a notice of lien containing the amount of the delinquent annual disposal special assessments, including the amount of the first penalty, a legal description of the improved real property against which the lien is imposed, and the name of the owner of such real property as indicated on the real property records maintained by the property appraiser of the county. Said notice of lien shall be recorded in the public records of the county on or about September 30 of the fiscal year for which the annual disposal special assessments were levied, or as soon thereafter as the Authority shall determine. A copy of the notice of lien shall be served on the owner of record as provided in section 713.18, Florida Statutes, within 10 days after the notice of lien is recorded.

(6) Notification and payment of annual disposal special assessments; discharge of recorded liens.—The Authority shall collect the payment of all current or delinquent annual disposal special assessments from November

1 of the fiscal year for which the annual disposal special assessments are imposed until paid or satisfied as herein provided. The Authority shall mail notices of the annual disposal special assessments to the owners of each parcel of improved real property in the manner and containing the information as follows:

(a) The first notice shall be mailed on or about November 1 of each fiscal year to all owners, and such notice shall contain the amount of the annual disposal special assessments for the then-current fiscal year and a schedule of the discounts available to the owners for early payments. Such notice shall further advise the owners that failure to pay the annual disposal special assessments in a timely manner may result in a loss of title.

(b) The second notice shall be mailed on or about March 31 of such fiscal year to those owners who have failed to pay any or all of the then-due-and-owing annual disposal special assessments, and such notice shall contain a schedule of the initial penalty for nonpayment and shall further advise the owner that a notice of lien will be filed by the Authority against that parcel of improved real property on the public records of the county provided for that purpose. However, if such annual disposal special assessments, together with any penalties thereon, are received prior to September 30 of the fiscal year for which the annual disposal special assessments were levied, then such notice of lien will not be filed. Such notice shall further advise the owners that failure to pay the annual disposal special assessments in a timely manner may result in a loss of title.

(c) The third notice shall be mailed on or before June 1 of such fiscal year to those owners who have failed to pay any or all of the then-due-and-owing annual disposal special assessments, and such notice shall contain a schedule of the additional penalty incurred by the owners for each month from June 1 and thereafter.

In addition to the collection of any penalties, the Authority shall recover from the owner any cost that may be incurred in connection with such delinquent payments. When any such lien or liens have been fully paid or discharged, the Authority shall properly cause evidence of the satisfaction and discharge of such lien to be provided. Said lien or liens shall not be assigned by the Authority to any person.

(7) Enforcement of delinquent annual disposal special assessments.—All delinquent annual disposal special assessment liens may be enforced at any time by the Authority at least 30 days subsequent to the date of the service of the notice of lien for the amount due under such recorded liens, including all penalties, plus costs and a reasonable attorney's fee, by proceeding in a court of equity to foreclose such liens in the manner in which a mortgage lien is foreclosed under the laws of Florida, or the collection and enforcement of payment thereof may be accomplished by any other method authorized by law. It shall be lawful to join in any complaint or foreclosure, or any such legal proceeding, any one or more lots or parcels of land that are the subject of a lien or liens. The Authority is authorized and directed to execute and deliver, upon request, a written certification certifying the amount, including all penalties, plus costs, due for delinquent annual disposal special

assessments or under any recorded liens for any parcel of real property, or certifying that no such annual disposal special assessments are due, except current and nondelinquent annual disposal special assessments.

(8) Calculation of annual disposal special assessments.—

(a) Based upon the rate resolution, the Authority shall cause to be prepared an annual disposal special assessment roll. Such annual disposal special assessment roll shall contain a summary description of each parcel of improved real property within the county on or before September 1 prior to the fiscal year for which the annual disposal special assessments are to be imposed, the name and address of the owner of each parcel of improved real property, the rate applicable to each parcel of improved real property as specified in the rate resolution, and the amount of the annual disposal special assessments applicable to each parcel of improved real property. The summary description of each parcel of improved real property shall be in such detail as to permit ready identification of each parcel on the real property records. The information specified above to be included in the annual disposal special assessment roll shall conform to that maintained by the property appraiser on the real property records.

(b) Upon completion of the preparation of the annual disposal special assessment roll, the Authority shall at any regular or special meeting review the annual disposal special assessment roll for preparation in conformity with the rate resolution. The Authority shall make such changes or additions as necessary to conform such annual disposal special assessment roll to the rate resolution. If, upon the completion of such review, the Authority shall be satisfied that the annual disposal special assessment roll has been prepared in conformity with the rate resolution, the Authority shall ratify and confirm the annual disposal special assessment roll and certify that the annual disposal special assessment roll is correct and proper and is to be used in collecting the annual disposal special assessments.

(c) On or before October 1 of the fiscal year for which the annual disposal special assessment roll is confirmed, the Authority shall cause to be prepared an addendum to the annual disposal special assessment roll containing the addition or deletion of any parcels of improved real property not incorporated into or deleted from the annual disposal special assessment roll but constituting improved real property on September 1 prior to the fiscal year for which the annual disposal special assessments are imposed. Included in such addendum shall be any change in the information specified for each parcel of improved real property on the annual disposal special assessment roll. Such addendum to the annual disposal special assessment roll shall contain information required for the annual disposal special assessment roll and shall be reviewed by the authority and certified as the annual disposal special assessment roll of the Authority.

Section 8. Collection of annual disposal special assessments by tax collector; alternative method of levy and collection.—The Authority may, to the extent permitted by law, utilize the office of the tax collector for the purpose of collecting the annual disposal special assessments imposed under this act. The Authority may, in connection with the collection of the annual disposal

special assessments, proceed in the manner set forth in this section as an alternative to that set forth in section 7 of this charter, or as provided by chapter 197, Florida Statutes, as it may be amended from time to time. In the event the Authority chooses to follow the method of collection set forth in this section, it must first enter into written agreements with the property appraiser and the tax collector to perform the duties as outlined in this section. Said agreements shall be entered into voluntarily and at the sole options of the property appraiser and the tax collector, and shall provide for reimbursement to them of all costs associated with their duties hereunder.

(1) Purpose.—It is the purpose of this section to provide for an additional and alternative, but in no event exclusive, method and procedure for the collection of annual disposal special assessments from the owners of all improved real property in both the incorporated and unincorporated areas of the county, in the same manner as the collection of ad valorem taxes by the county and through the tax bill issued by the tax collector.

(2) Determination of annual disposal special assessments; public hearing.—On or before July 30 of each year, or such other date as may be specified by chapter 197, Florida Statutes, the Authority shall hold a public hearing for the following purposes:

(a) To adopt a budget for the operation and maintenance of the solid waste system for the ensuing fiscal year, including moneys for the payment of the principal and interest on bonds and other outstanding or anticipated indebtedness, including all reserves necessary therefrom, for the payment of necessary reserves for capital expenditures and the renovation, improvements, and replacements of existing facilities of the solid waste system, for the enforcement and administration of the billing and collection of the annual disposal special assessments provided for hereunder, including necessary reserves for anticipated delinquent or uncollectible annual disposal special assessments, and for the payment of the current operation and maintenance of the solid waste system.

(b) To adopt a rate resolution incorporating a schedule of annual disposal special assessments to be imposed upon the owners of all improved real property in both the incorporated and unincorporated areas of the county to establish the classification of the use of such parcel or parcels of improved real property in order to provide the revenues to fund the budget referred to in paragraph (a). Such rate resolution adopted at the public hearing shall further authorize the collection of the annual disposal special assessments in the same manner as the collection of ad valorem taxes by the county and through the utilization of the office of the tax collector of the county.

Notice of said public hearing shall be published in a newspaper of general circulation in the county at least twice, with the first publication being at least 20 days prior to the public hearing. Additional notice shall also be provided to each affected property owner by first class mail of both the potential for loss of his or her title through the use of the ad valorem collection method and the time and place of said public hearing. Said public hearing may be continued to a date certain without the necessity of further newspaper advertisement or public notice.

(3) Scope of annual disposal special assessments.—

(a) The annual disposal special assessments incorporated in the rate resolution applicable to each parcel of improved real property shall be the annual disposal special assessments for each such parcel of improved real property for the disposal of all solid waste generated on each such parcel of improved real property during the ensuing fiscal year.

(b) The annual disposal special assessments shall be imposed against the owners of all real property in both the incorporated and unincorporated areas of the county if such real property is improved real property on or before January 1 prior to the fiscal year in which the annual disposal special assessments are imposed.

(c) The owner and description of each parcel of improved real property shall be that designated on the real property records maintained by the property appraiser.

(4) Enforcement and collection.—The annual disposal special assessments shall be due and payable on November 1 of each year or at such other times as prescribed by the amended tax bill. Such annual disposal special assessments shall be collected and enforced by the tax collector in the same manner that ad valorem taxes are collected, including, but not limited to, provisions of law relating to discount for early payment, prepayment by installment method, and penalty for delinquent payment.

(5) Annual disposal special assessments shall constitute a lien on improved real property.—All annual disposal special assessments imposed against the owners of improved real property shall constitute, and are hereby imposed as, liens against such improved real property as of October 1 of the fiscal year for which the annual disposal special assessments are imposed. Until fully paid and discharged or barred by law, the annual disposal special assessments shall remain liens equal in rank and dignity with the lien of the county ad valorem taxes and superior in rank and dignity to all other liens, encumbrances, titles, and claims in, to, or against the real property involved. If any annual disposal special assessment liens become delinquent by not being fully paid by March 31 of the fiscal year for which the annual disposal special assessments are imposed and remain delinquent, the Authority shall cause to be prepared a notice of lien containing the amount of the delinquent annual disposal special assessments, including the amount of the first penalty, a legal description of the improved real property against which the lien is imposed, and the name of the owner of such real property as indicated on the real property records maintained by the property appraiser of the county. The Authority shall cause to be mailed on or before June 1 of such fiscal year to those owners who have failed to pay any or all of the then-due-and-owing annual disposal special assessments a notice of intention to file lien, and such notice shall contain a schedule of the additional penalty incurred by the owners for each month from June 1 and thereafter and a notice that a lien will be filed if not paid on or before September 30. If the assessment is not paid, a notice of lien shall be recorded in the public records of the county on or about September 30 of the fiscal year for which the annual disposal special assessments were levied, or as soon thereafter as the Authority shall determine.

(6) Payment of annual disposal special assessments.—It shall be the duty of the tax collector, pursuant to law, to collect payments of all annual disposal special assessments referred to in this section. The tax collector shall distribute the annual disposal special assessments so collected to the Authority at the times and in the manner provided by law. The tax collector shall mail to all owners of improved real property such notices as are required by law.

(7) Enforcement of delinquent annual disposal special assessments.—All delinquent annual disposal special assessment liens may be enforced by the Authority in the manner provided by law.

(8) Certification to property appraiser and tax collector.—

(a) Upon adoption by the Authority of the rate resolution provided herein, the Authority shall forthwith deliver a certified copy of the rate resolution to the property appraiser and tax collector. Based upon said rate resolution and pursuant to written contracts between the Authority and the property appraiser and the Authority and the tax collector, the property appraiser shall include the annual disposal special assessments on the tax notice issued pursuant to section 197.3635, Florida Statutes, or any successor laws, and the tax collector shall collect the annual disposal special assessments as provided by law.

(b) Nothing contained in this section shall be construed or interpreted to preclude the Authority from submitting, within its discretion, a separately prepared notice of the annual disposal special assessments imposed on certain improved real property to the owner of such property if, in the opinion of the Authority, such procedure shall facilitate the billing and collection of such annual disposal special assessments, which notice shall be in addition to the notice submitted by the property appraiser.

(9) Additional proceedings.—The Authority shall conform with and shall do and provide such additional proceedings as may be necessary to enable the Authority to collect the annual disposal special assessments in the same manner as the collection of ad valorem taxes of the county and through the utilization of the office of the tax collector to the extent that the general law relating to the method of collection shall require further and additional notices or other proceedings of the Authority.

Section 9. Annual disposal special assessments to governmental agencies; applicability of annual disposal special assessments to tax-exempt improved real property.—

(1)(a) The Authority shall bill all governmental agencies owning improved real property within both the incorporated and unincorporated areas of the county and said governmental agencies shall pay the annual disposal special assessments imposed under the applicable classification specified in the rate resolution.

(b) The discounts for early payment shall not be applicable to the annual disposal special assessments imposed against governmental agencies own-

ing real property. Such governmental agencies shall pay in the manner provided herein the full annual disposal special assessments imposed.

(c) The annual disposal special assessments imposed against governmental agencies shall become delinquent if not fully paid within 60 days from the date the notice of such annual disposal special assessments is mailed. All delinquent annual disposal special assessments shall bear an initial penalty of 4 percent of the full amount of the annual disposal special assessments if not paid by the expiration of the 60-day period and an additional penalty of 1 percent per month on the delinquent amount, plus the initial penalty, on the first day of each month thereafter until said annual disposal special assessments are paid in full.

(d) The Authority shall have the authority to enforce the collections of any delinquent annual disposal special assessments by the institution of an appropriate action against the governmental agency in a court of competent jurisdiction for a judgment for the amount due under such annual disposal special assessments, including all penalties, plus costs and a reasonable attorney's fee.

(e) The provisions of paragraphs (5), (6), and (7) of section 7 of this charter and paragraphs (5) and (6) of section 8 of this charter shall not be applicable to the annual disposal special assessments imposed against improved real property owned by any governmental agency.

(2) Applicability of annual disposal special assessments to tax-exempt improved real property.—The tax exemption of property from taxation under chapter 196, Florida Statutes, or any other law or constitutional provision shall not relieve the owner of any improved real property in the county from the provisions hereof or from the imposition by the Authority of the annual disposal special assessments applicable to such improved real property as specified in the rate resolution.

Section 10. Limitations on franchises.—The Authority shall adopt by resolution a procedure for granting exclusive franchises, subject to the following limitations:

(1) No franchise, contract, or permit shall be granted or extended for a period of time exceeding 5 years.

(2) A public hearing shall be held prior to the adoption of any rates, fees, or charges to the public.

(3) No exclusive franchise shall be granted except pursuant to a procedure adopted by the Authority which shall include the following minimum requirements:

(a) The entire process shall comply with chapter 286, Florida Statutes.

(b) The procedure shall encourage competition among potential franchisees.

(c) The franchise award shall occur at a regular meeting of the Authority and shall be confirmed by a subsequent resolution, which shall contain

sufficient findings to demonstrate that the award was in the best interest of the public to be served thereby.

(d) Any party aggrieved by the franchise award may appeal the award in writing, within 30 days after the award, to the Authority, which shall decide said appeal by written order within 60 days after its receipt by the Authority. An unsuccessful appellant may thereafter appeal the Authority's decision by writ of certiorari to the circuit court.

Section 11. Exemption from taxation.—The property, moneys, and other assets of any countywide authority created hereunder and all of its revenues or other income shall be exempt from all taxation, licenses, fees, or other charges of any kind imposed by the state or by the county or by any municipality, political subdivision, taxing district, or other public agency or body of the state.

Section 12. Prohibition; permits; penalty.—

(1) It is unlawful to violate this act or the rules duly adopted pursuant to it. After the effective date of this act, no person shall:

(a) Place or deposit any solid waste in or on the lands or waters located within the county except in a manner consistent with the countywide solid waste program.

(b) Burn solid waste except in a manner consistent with the countywide solid waste program.

(c) Accomplish or authorize any act inconsistent with the provisions of this act and those of chapter 403, Florida Statutes.

(2) No person shall operate, maintain, construct, expand, or modify any resource recovery or waste management facility without first having applied for and received a valid operating permit from the Authority.

(3) Any person found in violation of any provision of this act or any rules adopted pursuant to it commits a misdemeanor of the second degree and shall be punished as provided by law. If such violation be continuing, each 24-hour day or fraction thereof during which such violation occurs shall constitute a separate offense.

Section 13. Enforcement.—The director of the Palm Beach County Health Department shall determine compliance with the provisions of this act which relate to sanitary collection, storage, processing, and disposal of solid waste, in accordance with the provisions of Palm Beach County Environmental Control Ordinance No. 78-5 and any amendments thereto. Any and all violations shall be reported in writing and a copy of the official inspection report shall be presented to the violator and a copy of said inspection report shall also be delivered to the executive director of the Authority.

(1) If any resource recovery or management facility fails to comply with the provisions of the rules adopted by the department or the Authority pursuant to chapter 403, Florida Statutes, or under this act, the director of

the Palm Beach County Health Department shall give the violator a reasonable time, by formal notice, within which to correct such violation. Should the violation continue beyond the time specified for correction, the director of the Palm Beach County Health Department shall notify the environmental control officer, in writing, of such failure to correct the violation.

(2) Upon notice of the director of the Palm Beach County Health Department that a resource recovery or waste management facility has failed to correct violations, the environmental control officer shall notify the Palm Beach County Environmental Control Hearing Board of such noncompliance, whereupon the hearing board shall, within 45 days after such notice, order the violator to appear before it to show cause why remedial action should not be taken. Any meetings before the hearing board shall be conducted in accordance with the provisions of Palm Beach County Environmental Control Ordinance No. 78-5 and any amendments thereto.

(3) If, after due public hearing, the hearing board upholds the violation, the hearing board shall make a decision setting forth findings of fact and such conclusions of law as are required in view of the issues presented. The decision shall contain an order framed in the manner of a writ of injunction requiring the violator to refrain from committing, creating, maintaining, or permitting the violation and take such affirmative action as the hearing board deems reasonable and necessary under the circumstances to correct such violation.

Section 14. Injunctive relief.—If preventive or corrective measures are not taken in accordance with any order of the hearing board, or if the environmental control officer finds that a violation of the provisions of this act exists so as to create an emergency requiring immediate action to protect human health or welfare, the environmental control officer may institute proceedings in the Circuit Court for Palm Beach County to enforce this act or rules or orders pursuant thereto. Such injunctive relief may include both temporary and permanent injunctions. Any proceedings initiated under this section shall be brought for and in the name of the Authority.

Section 15. Judicial review.—Any person aggrieved by any action or decision of the hearing board may seek appropriate judicial review.

Section 4. 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 5. This act shall be construed as a remedial act and shall be liberally construed to promote the purpose for which it is intended.

Section 6. Chapters 75-473, 77-626, 79-536, 79-539, 79-542, 84-501, 84-502, 86-433, 88-544, 91-334, 93-345, and 94-462, Laws of Florida, are repealed.

Section 7. This act shall take effect upon becoming a law.

Approved by the Governor May 25, 2001.

Filed in Office Secretary of State May 25, 2001.