

Senate Bill No. 266

An act relating to solid waste collection; amending s. 165.061, F.S.; clarifying provisions related to the treatment of existing solid waste contracts in areas affected by the merger or incorporation of municipalities; amending s. 316.1975, F.S.; exempting solid-waste or recovered-materials collection vehicles from a prohibition against leaving the engine running when the vehicle is unattended; amending s. 403.70605, F.S.; clarifying the definition of the term “displacement”; providing an effective date.

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

Section 1. Subsection (1) and paragraph (d) of subsection (2) of section 165.061, Florida Statutes, are amended to read:

165.061 Standards for incorporation, merger, and dissolution.—

(1) The incorporation of a new municipality, other than through merger of existing municipalities, must meet the following conditions in the area proposed for incorporation:

(a) It must be compact and contiguous and amenable to separate municipal government.

(b) It must have a total population, as determined in the latest official state census, special census, or estimate of population, in the area proposed to be incorporated of at least 1,500 persons in counties with a population of 75,000 or less, and of at least 5,000 population in counties with a population of more than 75,000.

(c) It must have an average population density of at least 1.5 persons per acre or have extraordinary conditions requiring the establishment of a municipal corporation with less existing density.

(d) It must have a minimum distance of any part of the area proposed for incorporation from the boundaries of an existing municipality within the county of at least 2 miles or have an extraordinary natural boundary which requires separate municipal government.

(e) It must have a proposed municipal charter which:

1. Prescribes the form of government and clearly defines the responsibility for legislative and executive functions.

2. Does not prohibit the legislative body of the municipality from exercising its powers to levy any tax authorized by the Constitution or general law.

(f) In accordance with s. 10, Art. I of the State Constitution, the plan for incorporation must honor existing solid-waste contracts in the affected geographic area subject to incorporation. However, the plan for incorporation

may provide for existing contracts for solid-waste-collection services to be honored only for 5 years or the remainder of the contract term, whichever is less, and may require that a copy of the pertinent portion of the contract or other written evidence of the duration of the contract, excluding any automatic renewals or evergreen provisions, be provided to the municipality within a reasonable time after a written request to do so.

(2) The incorporation of a new municipality through merger of existing municipalities and associated unincorporated areas must meet the following conditions:

(d) In accordance with s. 10, Art. I of the State Constitution, the plan for merger ~~or incorporation~~ must honor existing solid-waste ~~solid-waste~~ contracts in the affected geographic area subject to merger, ~~or incorporation~~; However, the plan for merger ~~or incorporation~~ may provide for ~~that~~ existing contracts for solid-waste-collection ~~solid-waste-collection~~ services ~~to shall~~ be honored only for 5 years or the remainder of the contract term, whichever is shorter, and may require that a copy of the pertinent portion of the contract or other written evidence of the duration of the contract, excluding any automatic renewals or so-called “evergreen” provisions, be provided to the municipality within a reasonable time following a written request to do so.

Section 2. Subsection (2) of section 316.1975, Florida Statutes, is amended to read:

316.1975 Unattended motor vehicle.—

(2) This section does not apply to the operator of:

(a) An authorized emergency vehicle while in the performance of official duties and the vehicle is equipped with an activated antitheft device that prohibits the vehicle from being driven; ~~or~~

(b) A licensed delivery truck or other delivery vehicle while making deliveries; ~~or-~~

(c) A solid-waste or recovered-materials collection vehicle while collecting such items.

Section 3. Paragraph (a) of subsection (3) of section 403.70605, Florida Statutes, is amended to read:

403.70605 Solid waste collection services in competition with private companies.—

(3) DISPLACEMENT OF PRIVATE WASTE COMPANIES.—

(a) As used in this subsection, the term “displacement” means a local government’s provision of a collection service which prohibits a private company from continuing to provide the same service that it was providing when the decision to displace was made. The term does not include:

1. Competition between the public sector and private companies for individual contracts;
2. Actions by which a local government, at the end of a contract with a private company, refuses to renew the contract and either awards the contract to another private company or decides for any reason to provide the collection service itself;
3. Actions taken against a private company because the company has acted in a manner threatening to the public health or safety or resulting in a substantial public nuisance;
4. Actions taken against a private company because the company has materially breached its contract with the local government;
5. Refusal by a private company to continue operations under the terms and conditions of its existing agreement during the 3-year notice period;
6. Entering into a contract with a private company to provide garbage, trash, or refuse collection which contract is not entered into under an ordinance that displaces or authorizes the displacement of another private company providing garbage, trash, or refuse collection;
7. Situations in which a majority of the property owners in the displacement area petition the governing body to take over the collection service;
8. Situations in which the private companies are licensed or permitted to do business within the local government for a limited time and such license or permit expires and is not renewed by the local government. This subparagraph does not apply to licensing or permitting processes enacted after May 1, 1999, or to occupational licenses; or
9. Annexations, but only to the extent that the provisions of s. 171.062(4) apply.

Section 4. This act shall take effect July 1, 2002.

Approved by the Governor April 16, 2002.

Filed in Office Secretary of State April 16, 2002.