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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL  
No. 2026 Session of  
1997

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INTRODUCED BY CALTAGIRONE, BELARDI, WOJNAROSKI, YOUNGBLOOD AND  
TRELLO, NOVEMBER 25, 1997

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REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, NOVEMBER 25, 1997

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AN ACT

1 Requiring certain actions or payments by municipalities when the  
2 providing of municipal waste collection by private firms is  
3 being terminated.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Definitions.

7 The following words and phrases when used in this act shall  
8 have the meanings given to them in this section unless the  
9 context clearly indicates otherwise:

10 "Municipality." A county, city, borough, incorporated town,  
11 township or home rule municipality.

12 "Municipal waste." Any garbage, refuse, industrial lunchroom  
13 or office waste and other material, including solid, liquid,  
14 semisolid or contained gaseous material, resulting from the  
15 operation of residential, municipal, commercial or institutional  
16 establishments and from community activities.

17 "Private firm." An individual, partnership, corporation or  
18 association in the business of collecting municipal waste.

1 Section 2. Application of act.

2 The provisions of this act shall apply whenever a  
3 municipality undertakes the collection of municipal waste as a  
4 municipal service or takes any other action regulating the  
5 collection of municipal waste, and, as a result of undertaking  
6 such service or taking such action, the arrangements of a  
7 private firm or private firms with its customers for municipal  
8 waste collection will be terminated.

9 Section 3. Qualifications of private firms.

10 Any private firm which was providing municipal waste  
11 collection services to 50 or more customers at least 90 days  
12 prior to adoption of the ordinance or resolution of the  
13 municipality authorizing the undertaking of municipal waste  
14 collection as a municipal service or otherwise regulating the  
15 collection of municipal waste and is still providing such  
16 services on the date of adoption of the ordinance or resolution,  
17 and by reason thereof the arrangements of the private firm with  
18 its customers will be terminated, may, within ten days after the  
19 adoption by the municipality of the ordinance or resolution,  
20 make a written request to the municipality, signed by the owner  
21 or an officer of the firm, that it wishes to contract with the  
22 municipality for collection of municipal waste.

23 Section 4. Obligations of municipality.

24 Upon receipt of such a request, unless other arrangements  
25 satisfactory to the private firm have been made, the  
26 municipality shall either:

27 (1) contract with the private firm for a period of two  
28 years after the effective date of the ordinance or resolution  
29 to allow the private firm to provide collection services to  
30 the municipality in the area it serves for sums determined

under section 7; or

(2) pay to the private firm, in lieu of a contract, a sum equal to the economic loss determined under section 7.

Section 5. Copy of ordinance or resolution to be provided.

The city shall make a good faith effort to provide a copy of the proposed ordinance or resolution to each private firm providing municipal waste collection services in the municipality at least 60 days prior to consideration of the ordinance or resolution for adoption.

Section 6. Contract provisions.

The city may require that the contract with the private firm contain:

(1) A requirement that the private firm maintain public liability insurance coverage.

(2) A requirement that the private firm agree to service customers in the municipality that were not served by that firm on the effective date of the ordinance or resolution.

(3) A provision that divides the municipality into service areas if there was more than one firm being contracted within the area, such that the entire area is served by the private firms, or by the municipality as to customers not served by the private firms.

(4) A provision that the municipality or another private firm may serve customers not served by the firm on the effective date of the ordinance or resolution.

(5) A provision that the contract may be canceled for substantial violations of the contract. However, no contract may be canceled on these grounds unless a court of common pleas finds that substantial violations have occurred, except that the city may suspend the contract for up to 30 days if

1 it finds substantial violation of health laws.

2 (6) Performance standards, not exceeding municipal  
3 standards, with provision that the contract may be canceled  
4 for substantial violations of those standards. However, no  
5 contract may be canceled on these grounds unless the court  
6 finds that substantial violations have occurred.

7 (7) A provision for monetary damages if there are  
8 violations of the contract or of performance standards.

9 Section 7. Terms of contracts or payments.

10 (a) Amount of payment.--If the services to be provided by  
11 reason of the takeover of function or the regulation of  
12 municipal waste collection are substantially the same as  
13 rendered by the private firm under its arrangements with the  
14 parties, the amount paid by the municipality shall be at least  
15 90% of the amount paid or required under the existing  
16 arrangements. If such services are required to be adjusted to  
17 conform to municipal standards or requirements or as a result of  
18 changes in the number of customers, and as a result there are  
19 changes in disposal costs, including mileage and landfill  
20 charges, requirements for storage capacity (dumpsters and/or  
21 residential carts) and/or frequency of collection, the amount  
22 paid by the municipality for the service shall be increased or  
23 decreased to reflect the value of such adjusted services as if  
24 computed under the existing arrangements. In the event agreement  
25 cannot be reached between the municipality and the private firm  
26 under this subsection, such matters shall be determined by the  
27 court of common pleas.

28 (b) Termination.--The municipality may, at any time after  
29 one year's operation thereunder, terminate a contract made with  
30 the municipal waste collection firm upon payment to the firm of

1 an amount equal to the economic loss determined in subsection  
2 (c), but discounted by the percentage of the contract which has  
3 elapsed prior to the effective date of the termination.

4 (c) Definition.--As used in this section, the term "economic  
5 loss" means 12 times the average monthly revenue for the three  
6 months prior to the adoption of the ordinance or resolution  
7 collected by or due the private firm from its customers in the  
8 municipality.

#### 9 Section 8. Failure to offer contract.

10 After a timely request for a contract has been made by a  
11 private firm, if the municipality fails to offer a contract to  
12 the private firm within 30 days following the passage of an  
13 ordinance or resolution providing for the collection of  
14 municipal waste as a municipal service, the private firm may  
15 appeal to the court of common pleas. The private firm may appeal  
16 to the court of common pleas for an order staying the  
17 implementation of the ordinance or resolution pending the  
18 outcome of the review. The court may grant or deny the stay upon  
19 such terms as it deems proper. If the court finds that the  
20 municipality has not made an offer which complies with this act,  
21 it shall remand the ordinance to the governing body of the  
22 municipality for further proceedings, and the ordinance shall  
23 not be implemented until the court finds that such an offer has  
24 been made.

#### 25 Section 9. Duty of private firm.

26 A private firm which has given notice that it desires to  
27 contract, and any firm that the municipality believes is  
28 eligible to give such notice, shall make available to the  
29 municipality, not later than five days following a written  
30 request of the municipality, all information in its possession

1 or control, including, but not limited to, operational,  
2 financial and budgetary information, necessary for the  
3 municipality to determine if the firm qualifies for the benefits  
4 of this act and to determine the nature and scope of the  
5 potential contract and/or economic loss.

6 Section 10. Effective date.

7 This act shall take effect in 60 days.