

HOUSE BILL No. 2639

By Committee on Local Government

2-6

1 AN ACT concerning municipalities; relating to commercial solid waste
2 activity.

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4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) As used in this act:

6 (1) "Commercial solid waste activity" means the process of storage,
7 collection, transportation, collection, processing and disposal of solid
8 wastes.

9 (2) "Municipality" means any county, city, township and other
10 political subdivision or taxing subdivision including any board, bureau,
11 commission, committee or other agency having authority to create,
12 regulate or otherwise impact commercial solid waste activity.

13 (3) "Solid waste" has the meaning as the term is defined by K.S.A.
14 65-3402, and amendments thereto.

15 (4) "Private enterprise" means an individual, firm, partnership, joint
16 venture, corporation, association or any other legal entity engaging in
17 commercial solid waste activity.

18 (b) For all commercial solid waste activity by a municipality, annual
19 financial statements of all income and expenses of the commercial solid
20 waste activity activities shall be maintained separately and on the same
21 basis as all other financial statements of the municipality. Income from
22 monetary assets of a municipality shall not be shown as income of
23 commercial solid waste activity but shall be shown as income of the
24 municipality.

25 (c) The financial statements of commercial solid waste activity shall
26 not include any income from the municipality. Grants shall not be included
27 as income of the commercial solid waste activity but shall be shown as
28 income to the municipality.

29 (d) The financial statements of commercial solid waste activity shall
30 include proportionate amounts of common expenses shared with other
31 agencies or offices of the municipality, including, but not limited to, utility
32 costs, fuel, tires, supplies, repair and replacement costs, insurance of all
33 types, employee compensation, employee benefits, payroll taxes, debt
34 service and depreciation of all types.

35 (e) The financial statements of a municipality and the commercial
36 solid waste activity shall be audited and certified as correct by a certified

1 public accountant and auditor within 120 days after the end of the annual
2 accounting period and when certified shall be made available to the public.

3 (f) It shall be unlawful for any municipality to engage in commercial
4 solid waste activity or to enter into agreement of any kind with another
5 municipality to provide any commercial solid waste activity without first
6 taking formal bids for services from the private enterprise sector. Once
7 bids have been taken and published, all municipalities involved in the
8 transaction must:

9 (1) Publish the received bids in at least two papers of general
10 circulation and advertise a 30-day public comment period in at least two
11 written papers of general circulation.

12 (2) Publish the proposed relationship and cost to be incurred by the
13 municipality. The cost detail must show the following:

14 (A) Any portion of the cost which is tax exempt and what the cost
15 would otherwise be; and

16 (B) lost tax revenue as a result of not having a tax paying entity
17 provide the same service.

18 (3) Within 30 days of publication of the bids as described in this
19 section, each municipality involved in the proposed transaction shall hold
20 a public hearing to receive public comment.

21 (4) The municipality may not proceed to begin services until:

22 (A) Thirty days after the public hearing; and

23 (B) after elected officials representing all municipalities involved
24 have voted to accept the comments of the public hearing.

25 (5) The municipality shall not engage in commercial solid waste
26 activity if there is a private enterprise that can provide the services at the
27 same or lower cost as the municipality.

28 (g) Any municipality which engages in commercial solid waste
29 activity or enters into agreement for commercial solid waste activity with
30 another municipality which is beyond its incorporated limits shall forfeit
31 its right to local government guarantee to support closure and post-closure
32 liability as described in subsection (i) and shall be required to provide the
33 state of Kansas closure and post-closure funding utilizing only those
34 mechanisms as described in subsection (i) (1) through subsection (i) (5).

35 (h) Any real or personal property which any municipality uses for
36 commercial solid waste activity shall not be exempt from taxation.

37 (i) Allowable financial assurance methods shall consist of the
38 following:

39 (1) A funded trust fund;

40 (2) a surety bond guaranteeing payment;

41 (3) a surety bond guaranteeing performance;

42 (4) an irrevocable letter of credit;

43 (5) an insurance policy;

- 1 (6) a corporate financial test;
- 2 (7) a corporate financial guarantee;
- 3 (8) a local government financial test;
- 4 (9) a local government guarantee;
- 5 (10) use of *ad valorem* taxing authority for a local government
- 6 subdivision of the state that owns or operates a solid waste facility other
- 7 than a municipal solid waste landfill; or
- 8 (11) the following simplified financial instruments:
- 9 (A) A simplified permit bond for facilities with a closure cost
- 10 estimate of \$100,000 or less;
- 11 (B) a simplified irrevocable letter of credit for facilities with a closure
- 12 cost estimate of \$100,000 or less; and
- 13 (C) an assigned certificate of deposit for facilities with a closure cost
- 14 estimate of \$25,000 or less.
- 15 (j) The secretary of health and environment shall adopt rules and
- 16 regulations necessary to implement the provisions of this section.
- 17 Sec. 2. This act shall take effect and be in force from and after its
- 18 publication in the statute book.
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