

HOUSE BILL No. 2701

By Committee on Federal and State Affairs

2-17

9 AN ACT concerning municipalities; establishing the organized solid
10 waste collection service act.

11

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

13 Section 1. Sections 1 through 4 shall be known as the organized solid
14 waste collection service act.

15 Sec. 2. As used in this act:

16 (a) "Municipality" means any county, city, township and other polit-
17 ical subdivision or taxing subdivision including any board, bureau, com-
18 mission, committee or other agency having authority to create, regulate
19 or otherwise impact the delivery of solid waste collection services.

20 (b) "Organized solid waste collection service" means a system for
21 collecting residential solid waste, commercial solid waste, or both, in
22 which a specified collector, or a member of an organization of collectors,
23 is authorized to collect from a defined geographic service area or areas
24 some or all of the solid waste that is released by generators.

25 (c) "Solid waste" has the meaning as the term is defined by K.S.A.
26 65-3402, and amendments thereto.

27 Sec. 3. (a) A municipality may establish an organized solid waste col-
28 lection service as a municipal service by ordinance, in the case of a city,
29 or by resolution, in the case of other municipalities. The ordinance or
30 resolution shall incorporate any franchise, license, or negotiated contract
31 or contract let by bid using one or more collectors or an organization of
32 collectors.

33 (b) At least 180 days before adopting such an ordinance or resolution,
34 the governing body of the municipality shall announce its intent to con-
35 sider adoption of an organized solid waste collection service, stating spe-
36 cific goals to be achieved, detailed justification for any franchise fees and
37 all other reasons for considering such a service by passage of a resolution.
38 The resolution shall be published once in the newspaper of greatest cir-
39 culation in the municipality. The resolution shall give notice of a public
40 hearing on the issue and shall invite the participation of interested persons
41 in the planning and establishing of the organized solid waste collection
42 service, including all licensees or other persons operating solid waste col-
43 lection services in the municipality as of the date of announcement of its

1 intent to organize collection in the municipality.

2 (c) A resolution of intent to adopt such a service following the initial
3 public hearing may only be adopted after a 60 day public comment period
4 followed by a second public hearing. The hearing must be held at least
5 30 days after public notice published in the newspaper of greatest cir-
6 culation in the municipality and notice by certified mail is sent to all
7 licensees or other persons operating solid waste collection services in the
8 municipality.

9 (d) During a 90-day period following the adoption of the resolution
10 of intent, the municipality shall develop a plan for organized solid waste
11 collection service. During this period, the municipality shall invite and
12 employ the assistance of all licensees or other persons operating solid
13 waste collection services in the municipality. All licensees or other persons
14 operating solid waste collection services in the municipality shall be al-
15 lowed to participate in all planning meetings.

16 (e) The municipality shall provide 30 days notice prior to presenting
17 the proposed plan to all licensees or other persons operating solid waste
18 collection services in the municipality.

19 (f) The plan shall:

20 (1) Describe in detail the procedures used for development of the
21 plan for organized solid waste collection service and compliance with all
22 required notice provisions;

23 (2) evaluate the proposed organized solid waste collection plan in
24 regard to the following:

25 (A) Achieving the stated goals;

26 (B) minimizing displacement and economic impact to current solid
27 waste collectors;

28 (C) ensuring participation in the decision making process of all in-
29 terested parties, including all licensees or other persons operating solid
30 waste collection services in the municipality as of the date of the resolu-
31 tion of intent to organize collection in the municipality; and

32 (D) maximizing efficiency in solid waste collection.

33 (3) Provide detailed justification for any franchise or similar fee,
34 which in any event shall not exceed the municipality's expense of admin-
35 istering the proposed organized collection program.

36 (4) Provide a proposed budget for the first five years of the muni-
37 cipality's operation and administration of the proposed organized solid
38 waste collection service. Any fees, taxes or other assessments set forth in
39 the plan may not be utilized for any other purpose than that stated in the
40 plan and set forth in the budget. The plan shall provide that any excess
41 funds at the end of any budget year shall carry over to the next budget
42 year and shall not revert to the municipality's general fund or any other
43 account.

1 (g) A municipality may not commence organized solid waste collec-
2 tion service pursuant to this act for a period of at least two years from
3 the adoption of an ordinance or resolution establishing such service. Dur-
4 ing the two year time period the municipality shall not displace any person
5 licensed to operate solid waste collection services in the municipality. If
6 the municipality does not implement the organized solid waste collection
7 service within three years of the date of the adoption of the ordinance or
8 resolution creating such service then the municipality must repeat the
9 process established by this act.

10 Sec. 4. If a municipality displaces any person operating solid waste
11 collection services in the municipality then it shall institute the condem-
12 nation process set forth in K.S.A. 26-501 et seq., and amendments
13 thereto, as if the business interest and real estate is being condemned.
14 Appraisers appointed by the court need not be residents of the county in
15 which the service is provided, but shall be persons with experience in the
16 purchase, sale and valuation of business interests. If a municipality ac-
17 quires all or any portion of a business by condemnation, the municipality
18 shall pay the fair market value of the business taken. In determining fair
19 market value of the business not taken, the appraisers shall take into
20 consideration any lost revenue to or from services which are ancillary to
21 the collection of solid waste and recyclables which losses occur or are
22 likely to occur as a result of the condemnation action. Fair market value
23 is the amount of money that a well informed buyer is justified in paying
24 and a well informed seller is justified in accepting for the business inter-
25 ests taken in an open and competitive market, assuming no undue
26 compulsion.

27 Sec. 5. This act shall take effect and be in force from and after its
28 publication in the statute book.