

HOUSE SUBSTITUTE TO SENATE BILL 154:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,
 2 so as to provide for nonexclusive franchise agreements with respect to certain open top
 3 rolloff dumpsters; to provide that certain exclusive franchise agreements are against public
 4 policy; to provide definitions; to require that certain contracts shall be honored by
 5 municipalities or other government entities; to provide for definitions; to provide for certain
 6 restrictions on certain actions taken by local governments; to place certain requirements on
 7 solid waste collection firms; to provide for additional requirements regarding certain excess
 8 funds of special districts divided into noncontiguous areas; to provide for related matters; to
 9 provide an effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
 13 by adding new Code sections to read as follows:

14 "36-60-26.

15 The governing authority of any county or municipality in this state is authorized to enter
 16 into nonexclusive franchise agreements with private persons, firms, associations, or
 17 corporations with respect to open top rolloff dumpsters which are 22 feet or less in length
 18 placed at construction sites for the collection and disposal of construction debris or inert
 19 debris. Such governing authority shall not impose any fee for such nonexclusive franchise
 20 agreements. It shall be against the public policy of this state for the governing authority
 21 of any county or municipality to enter into an exclusive franchise agreement with private
 22 persons, firms, associations, or corporations with respect to such dumpsters to be placed
 23 at such sites."

24 "36-80-22.

25 (a) As used in this Code section, the term:

1 (1) 'Agreement' means any written private contract for solid waste collection services
2 between a firm and any commercial client.

3 (2) 'Commercial client' means any private, nonresidential business entity or person
4 required to have a business license who contracts with a firm for solid waste collection
5 services.

6 (3) 'Displacement' means the displacing of any firm's agreement by annexation,
7 deannexation, or incorporation of a municipality.

8 (4) 'Firm' means a private solid waste collection firm.

9 (5) 'Governmental action' means the invalidation of any firm's existing agreement by a
10 local government by a law, rule, or regulation, provided that such law, rule, or regulation
11 is not enacted pursuant to an emergency as declared by the governing authority of the
12 local government.

13 (6) 'Local government' means a county, municipal corporation, or any county-municipal
14 consolidated government.

15 (b) Prior to a firm receiving any protection under this Code section, the firm shall first
16 establish that at least 30 days prior to the effective date of any governmental action or
17 displacement, the firm is providing solid waste collection services in the county or
18 municipality pursuant to an agreement.

19 (c) A firm's agreement with a private commercial entity or person that meets the
20 requirements of subsection (b) of this Code section shall not be invalidated by any
21 governmental action or displacement. This subsection shall not prevent commercial clients
22 from discontinuing an agreement with a firm pursuant to the terms of any agreement such
23 commercial client may have with a firm.

24 (d) Notwithstanding the provisions of this Code section, in order to protect the public
25 health and safety, a local government shall have the authority to adopt local laws, rules, or
26 regulations establishing standards and procedures for the collection and disposal of solid
27 waste and recyclables generated by a commercial client."

28 SECTION 2.

29 Said title is further amended in Code Section 36-31-12, relating to special districts divided
30 into noncontiguous areas, by revising subsection (b) as follows:

31 "(b)(1) When a municipal corporation is created by local Act within a county which has
32 a special district for the provision of local government services consisting of the
33 unincorporated area of the county and following the creation of said municipal
34 corporation the special district is divided into two or more noncontiguous areas, any
35 special district taxes, fees, and assessments collected in such a noncontiguous area shall
36 be spent to provide services in that noncontiguous area. Effective January 1, 2006, for

1 the purposes of this Code section, a noncontiguous area located within ten miles of
 2 another noncontiguous area may be treated as the same noncontiguous area.

3 (2) If, on the effective date of this paragraph:

4 (A) Excess proceeds remain following the expenditure required under paragraph (1)
 5 of this subsection; and

6 (B) All of the area within the special district shall have become incorporated within
 7 one or more municipalities,

8 then the excess proceeds shall be disbursed within 60 days to the governing authority of
 9 each municipality which has incorporated any portion of the area of the special district.

10 The amount of proceeds to be disbursed to each municipality shall be determined on a pro
 11 rata basis using as a denominator the total value of all tax parcels within the special
 12 district and as a numerator the total value of all tax parcels which were incorporated
 13 within each municipality.

14 (3) If, on the effective date of this paragraph:

15 (A) Excess proceeds remain from the collection of any special district taxes, fees, and
 16 assessments; and

17 (B) A new municipality shall have been created from within such special district such
 18 that the special district shall have been diminished in size but not all of the special
 19 district shall have been incorporated within one or more municipalities,

20 then the excess proceeds shall be disbursed within 60 days to the governing authority of
 21 each municipality which has incorporated any portion of the area of the special district.

22 The amount of proceeds to be disbursed to each municipality shall be determined on a pro
 23 rata basis using as a denominator the total value of all tax parcels within the special
 24 district and as a numerator the total value of all tax parcels which were incorporated
 25 within each municipality."

26 **SECTION 3.**

27 This Act shall become effective upon its approval by the Governor or upon its becoming law
 28 without such approval.

29 **SECTION 4.**

30 All laws and parts of laws in conflict with this Act are repealed.