

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Bonnen

H.B. No. 1251

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to a public agency's, county's, or municipality's  
3 authority to grant or enforce certain solid waste collection and  
4 transportation services franchises.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 363.116, Health and Safety Code, is  
7 amended by adding Subsections (c) and (d) to read as follows:

8 (c) Notwithstanding Subsection (a), a public agency may  
9 enter into a contract for an exclusive franchise for the collection  
10 and removal of grease trap waste or grit trap waste only after a  
11 competitive bidding process. A public agency shall consider as the  
12 primary factor in awarding a contract under this subsection the  
13 bidder's ability to provide the collection and removal services at  
14 the lowest cost to the generator of the grease trap waste or grit  
15 trap waste.

16 (d) A public agency may not restrict the right of an entity  
17 to contract with a licensed waste hauler for the collection and  
18 removal of domestic septage or of grease trap waste, grit trap  
19 waste, lint trap waste, or sand trap waste.

20 SECTION 2. Section 364.034, Health and Safety Code, is  
21 amended by amending Subsection (e) and adding Subsections (f) and  
22 (g) to read as follows:

23 (e) This section does not apply to a person who provides the  
24 public or private entity, public agency, or county with written

1 documentation that the person is receiving solid waste disposal  
2 services from another entity. Except as provided by Subsection  
3 (f), nothing [Nothing] in this section shall limit the authority of  
4 a municipality to enforce its grant of a franchise for solid waste  
5 collection and transportation services within its territory.

6 (f) Notwithstanding Subsections (a)-(e), a political  
7 subdivision, including a county or a municipality, may not restrict  
8 the right of an entity to contract with a licensed waste hauler for  
9 the collection and removal of domestic septage or of grease trap  
10 waste, grit trap waste, lint trap waste, or sand trap waste.

11 (g) A public agency may enter into a contract for an  
12 exclusive franchise for the collection and removal of grease trap  
13 waste or grit trap waste only after a competitive bidding process.  
14 A public agency shall consider as the primary factor in awarding a  
15 contract under this subsection the bidder's ability to provide the  
16 collection and removal services at the lowest cost to the generator  
17 of the grease trap waste or grit trap waste.

18 SECTION 3. Subchapter C, Chapter 364, Health and Safety  
19 Code, is amended by adding Section 364.0341 to read as follows:

20 Sec. 364.0341. SERVICES IN UNINCORPORATED AREAS OF CERTAIN  
21 COUNTIES. (a) In order to help provide for the public health and  
22 safety of its citizens and in order to help deter the dumping of  
23 litter, garbage, refuse, building materials, and other matter on  
24 state-owned public beaches and adjoining sand dunes, the  
25 commissioners court of a county bordering both on the shoreline of  
26 the Gulf of Mexico or its tidewater limits and on the shoreline of  
27 Galveston Bay or its tidewater limits by order may:

1           (1) grant an exclusive franchise for solid waste  
2 collection and transportation services within unincorporated areas  
3 of the county to a legal entity engaged in providing solid waste  
4 disposal services;

5           (2) offer solid waste disposal service to persons in  
6 the unincorporated areas of the county;

7           (3) mandate the use of the service by persons in the  
8 unincorporated areas of the county;

9           (4) charge fees for the service; and

10           (5) establish the service as a utility separate from  
11 other utilities located in the unincorporated areas of the county.

12           (b) A fee for a service provided under this section may be  
13 collected by:

14           (1) the county;

15           (2) a private or public utility that contracts with  
16 the county to provide the service; or

17           (3) another private or public entity that contracts  
18 with the county to collect the fees.

19           (c) A county may contract with a public or private utility  
20 to collect a fee for a service provided under this section. The  
21 contract may:

22           (1) require that the fee for the service be included in  
23 the bill for other utility services;

24           (2) allow a fee to be paid to the utility for billing  
25 and collecting the fee;

26           (3) require a system of accounting for fees collected  
27 by an entity other than the county; and

1           (4) contain other terms as agreed to by the parties.

2           (d) To aid enforcement of the fee collection for the solid  
3 waste disposal service:

4           (1) a county or the public or private entity that has  
5 contracted with the county to provide the service may suspend  
6 service to a person who is delinquent in payment of solid waste  
7 disposal service fees until the delinquent claim is fully paid; and

8           (2) a public or private utility that bills and  
9 collects solid waste disposal service fees under this section may  
10 suspend service of that utility, in addition to the suspension of  
11 solid waste disposal services, to a person who is delinquent in the  
12 payment of the solid waste disposal service fee until the  
13 delinquent claim is fully paid.

14           SECTION 4. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect September 1, 2007.

**ADOPTED**

MAY 15 2007

*Atty. Gen.*  
Secretary of the Senate

By: Wentworth

H.B. No. 1251

Substitute the following for H.B. No. 1251:

By: Wentworth

C.S.H.B. No. 1251

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to a public agency's, county's, or municipality's  
3 authority to enforce a solid waste collection and transportation  
4 services franchise.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 364.034, Health and Safety Code, is  
7 amended by amending Subsection (e) and adding Subsection (f) to  
8 read as follows:

9 (e) This section does not apply to a person who provides the  
10 public or private entity, public agency, or county with written  
11 documentation that the person is receiving solid waste disposal  
12 services from another entity. Except as provided by Subsection  
13 (f), nothing [~~Nothing~~] in this section shall limit the authority of  
14 a municipality to enforce its grant of a franchise for solid waste  
15 collection and transportation services within its territory.

16 (f) Notwithstanding Subsections (a)-(e), a political  
17 subdivision, including a county or a municipality, may not restrict  
18 the right of an entity to contract with a licensed waste hauler for  
19 the collection and removal of domestic septage or of grease trap  
20 waste, grit trap waste, lint trap waste, or sand trap waste.

21 SECTION 2. This Act takes effect immediately if it receives  
22 a vote of two-thirds of all the members elected to each house, as  
23 provided by Section 39, Article III, Texas Constitution. If this  
24 Act does not receive the vote necessary for immediate effect, this

1 Act takes effect September 1, 2007.

**ADOPTED**

*as amended*

MAY 11 2007

FLOOR AMENDMENT NO. 1

BY: *Latay Spaw*  
Secretary of the Senate

*Shay*  
*(Shayleigh)*

Amend C.S.H.B. No. 1251 by striking SECTION 1 of the bill (senate committee printing, page 1, lines 14-28) and substituting:

SECTION 1. Section 364.034, Health and Safety Code, is amended by amending Subsection (e) and adding Subsections (f) and (g) to read as follows:

(e) Except as provided by Subsections (f) and (g), nothing [~~This section does not apply to a person who provides the public or private entity, public agency, or county with written documentation that the person is receiving solid waste disposal services from another entity. Nothing~~] in this section shall limit the authority of a public agency, including a county or a municipality, to enforce its grant of a franchise or contract for solid waste collection and transportation services within its territory. Except as provided by Subsection (f), the governing body of a municipality may provide that a contract it grants for solid waste collection and transportation services under this section or under other law supersedes inside of the municipality's boundaries any other contract adopted under this section.

(f) Notwithstanding the other provisions of this section, a political subdivision, including a county or a municipality, may not restrict the right of an entity to contract with a licensed waste hauler for the collection and removal of domestic septage or of grease trap waste, grit trap waste, lint trap waste, or sand trap waste.

(g) Except as provided by this subsection, a person is exempt from the application of a requirement adopted by a public agency or county under Subsection (a) if the person, on the date

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the requirement is adopted, is receiving under a contract in effect on that date solid waste disposal services at a level that is the same as or higher than the level of services that otherwise would be required. The exception provided by this subsection does not apply to a requirement adopted under this section by a municipality. To qualify for the exemption provided by this subsection, the person must provide to the public agency or county written documentation acceptable to the public agency or county not later than the 30th day before the date the otherwise required services are scheduled to begin. The exemption is effective only until the date the term of that contract expires according to the terms of that contract as provided on the date the requirement is adopted. This subsection does not exempt from the adopted requirement a person whose contract is extended, by option or otherwise, after the date the requirement is adopted. The person who provides solid waste disposal services to a person who qualifies for the exemption shall notify the public agency or county that the services under the contract have stopped not later than the 15th day after the date those services are stopped for any reason.



# ADOPTED

MAY 15 2007

*Atty. Gen.*  
Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY: *[Signature]*

*to HB 1251*

1 Amend Floor Amendment No. 1, by Shapleigh by striking the last  
2 sentence of amended Subsection (e), Section 364.034, Health and  
3 Safety Code, and substituting:

4 Except as provided by Subsection (f), the governing body of a  
5 municipality may provide that a franchise it grants or a contract  
6 it enters into for solid waste collection and transportation  
7 services under this subchapter or under other law supersedes inside  
8 of the municipality's boundaries any other franchise granted or  
9 contract entered into under this subchapter.

# ADOPTED

MAY 15 2007

*Lacey Spaw*  
Secretary of the Senate

FLOOR AMENDMENT NO. 3

BY: *Wentworth*

1 Amend Floor Amendment No. 1 by *Shapleigh* to C.S.H.B. No.  
2 1251 in proposed Subsection (g), Section 364.034, Health and Safety  
3 Code, by striking:  
4 The exemption is effective only until the date the term of that  
5 contract expires according to the terms of that contract as  
6 provided on the date the requirement is adopted. This subsection  
7 does not exempt from the adopted requirement a person whose  
8 contract is extended, by option or otherwise, after the date the  
9 requirement is adopted.

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**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 2, 2007**

**TO:** Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** **HB1251** by Bonnen (Relating to a public agency's, county's, or municipality's authority to enforce a solid waste collection and transportation services franchise.), **Committee Report 2nd House, Substituted**

**No fiscal implication to the State is anticipated.**

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** JOB, WK, DB



**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**April 18, 2007**

**TO:** Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** **HB1251** by Bonnen (Relating to a public agency's, county's, or municipality's authority to grant or enforce certain solid waste collection and transportation services franchises.), **As Engrossed**

**No fiscal implication to the State is anticipated.**

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** JOB, WK, DB



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**March 23, 2007**

**TO:** Honorable Dennis Bonnen, Chair, House Committee on Environmental Regulation

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1251** by Bonnen (Relating to a public agency's county's, or municipality's authority to enforce a solid waste collection and transportation services franchise. ), **Committee Report 1st House, Substituted**

**No fiscal implication to the State is anticipated.**

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** JOB, WK, DB





**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**March 7, 2007**

**TO:** Honorable Dennis Bonnen, Chair, House Committee on Environmental Regulation

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1251** by Bonnen (Relating to municipal authority to enforce a solid waste collection and transportation services franchise.), **As Introduced**

**No fiscal implication to the State is anticipated.**

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** JOB, WK, DB

