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SENATE BILL NO. 551

Offered January 22, 1996

A BILL to amend and reenact §§ 15.1-28.1 and 15.1-362.1 of the Code of Virginia, relating to solid waste.

Patrons—Reasor; Delegate: Tate

Referred to the Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.1- 28.1 and 15.1-362.1 of the Code of Virginia are amended and reenacted as follows:
 § 15.1-28.1. Regulation of garbage and refuse pickup and disposal services; contracting for such services.

A. The governing body of any county, city or town in this Commonwealth may, by ordinance, impose license taxes upon and otherwise regulate the services rendered by any business engaged in the pickup and disposal of garbage, trash or refuse, wherein service will be provided to the residents of any such county, city or town. Such regulation may include the delineation of service areas, the limitation of the number of persons engaged in such service in any such service area, including the creation of one or more exclusive service areas, and the regulation of rates of charge for any such service.

Such governing bodies are authorized to contract with any person, whether profit or nonprofit, for garbage and refuse pickup and disposal services in their respective jurisdiction.

Such governing bodies are further authorized to contract with any other county, agency or instrumentality of the Commonwealth for the receipt, use and disposal of all or any portion of the garbage or refuse generated by such other county, agency or instrumentality of the Commonwealth. Such contracts may provide for, or relate to, the furnishing of services and facilities of any garbage and refuse collection and disposal system of a county. Counties authorized under § 15.1-362.1 may impose fees for such services.

B. Prior to enacting an ordinance pursuant to subsection A which displaces a private company engaged in the provision of pickup and disposal of garbage, trash or refuse in service areas, the governing body shall: (i) hold at least one public hearing seeking comment on the advisability of such ordinance; (ii) provide at least forty-five days' written notice of the hearing, delivered by first class mail to all private companies which provide the service in the locality and which the locality is able to identify through local government records; and (iii) provide public notice of the hearing. Following the final public hearing held pursuant to the preceding sentence, but in no event longer than one year after the hearing, a governing body may enact an ordinance pursuant to subsection A which displaces a private company engaged in the provision of pickup and disposal of garbage, trash or refuse in a service area if the ordinance provides that private companies will not be displaced until five years after its passage. As an alternative to delaying displacement five years, a governing body may pay a company an amount equal to the company's preceding twelve months' gross receipts for the displaced service in the displacement area. Such five-year period shall lapse as to any private company being displaced when such company ceases to provide service within the displacement area.

For purposes of this section, "displace" or "displacement" means an ordinance prohibiting a private company from providing the service it is providing at the time a decision to displace is made. Displace or displacement does not mean: (i) competition between the public sector and private companies for individual contracts; (ii) situations where a locality or combination of localities, at the end of a contract with a private company, does not renew the contract and either awards the contract to another private company or, following a competitive process conducted in accordance with the Virginia Public Procurement Act, decides for any reason to contract with a public service authority established pursuant to the Virginia Water and Sewer Authorities Act, or, following such competitive process, decides for any reason to provide such pickup and disposal service itself; (iii) situations where action is taken against a company because the company has acted in a manner threatening to the health and safety of the locality's citizens or resulting in a substantial public nuisance; (iv) situations where action is taken against a private company because the company has materially breached its contract with the locality or combination of localities; (v) situations where a private company refuses to continue operations under the terms and conditions of its existing agreement during the five-year period; (vi) entering into a contract with a private company to provide pickup and disposal of garbage, trash or refuse in a service area so long as such contract is not entered into pursuant to an ordinance which displaces or authorizes the displacement of another private company providing pickup and disposal of garbage, trash or refuse in such service area; or (vii) situations where at least fifty-five percent of the property owners in the

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displacement area petition the governing body to take over such collection service.

C. The governing body of any county with a population in excess of 800,000 may provide, by ordinance, civil penalties not exceeding \$500 per offense for persons willfully contracting with a solid waste collector or collectors not licensed or permitted to perform refuse collection services within that jurisdiction. For purposes of this section, evidence of a willful violation is the voluntary contracting by a person with a solid waste collector after having received written notice from the jurisdiction that the solid waste collector is not licensed or permitted to operate within that jurisdiction. Written notice may be provided by certified mail or by any appropriate method specified in Article 4 (§ 8.01-296 et seq.) of Chapter 8 of Title 8.01.

D. The governing body of any county with a population in excess of 800,000 may, by ordinance, authorize the local police department to serve a summons to appear in court on solid waste collectors operating within that jurisdiction without a license or permit. Each day the solid waste collector operates within the jurisdiction without a license or permit is a separate offense, punishable by a fine of up to \$500.

§ 15.1-362.1. Fee for solid waste disposal by counties.

A. Floyd County, *Tazewell County*, any county with a population between 39,550 and 41,550, and any county with a population between 31,650 and 32,000 may levy a fee for the disposal of solid waste not to exceed the actual cost incurred by the county in procuring, developing, maintaining, and improving the landfill and for such reserves as may be necessary for capping and closing such landfill in the future. Such fee as collected shall be deposited in a special account to be expended only for the purposes for which it was levied. Except in Floyd County and any county with a population between 39,550 and 41,450, such fee shall not be used to purchase or subsidize the purchase of equipment used for the collection of solid waste.

B. Any fee imposed by subsection A when combined with any other fee or charge for disposal of waste shall not exceed the actual cost incurred by the county in procuring, developing, maintaining, and improving its landfill and for such reserves as may be necessary for capping and closing such landfill in the future.

C. Any county which imposes the fee allowed under subsection A may enter into a contractual agreement with any water or heat, light, and power company or other corporation coming within the provisions of Chapter 26 (§ 58.1-2600 et seq.) of Title 58.1 except Appalachian Power Company and Powell Valley Electric Cooperative for the collection of such fee. The agreement may include a commission for such service in the form of a deduction from the fee remitted. The commission shall be provided for by ordinance, which shall set the rate not to exceed five percent of the amount of fees due and collected.