

SESSION OF 2011

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2195

As Amended by Senate Committee on
Local Government

Brief*

HB 2195 would establish the Organized Collection Service Act, the purpose of which is to provide for a time-sensitive transition between private and public solid waste and recyclables collection services in counties, cities, townships and other political or taxing subdivisions having solid waste collection authority.

The bill would:

- Authorize a municipality to establish a municipal collection service by ordinance or resolution (depending upon the type of municipality). The ordinance or resolution must incorporate any franchise, license or contract involved.
- Define “municipality” to include any county, city, township or other political or taxing subdivision which has the authority to create, regulate or otherwise affect the delivery of collection services.
- Define “organized collection service” to mean a system for collecting solid waste, recyclables or both, and to include franchise, organized collection or a process in which a municipality goes from multiple haulers to one contracted hauler.
- Require the municipality's governing body to pass a resolution of intent to establish the municipal collection

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

service at least 180 days before adopting the ordinance or resolution. The resolution must:

- Be published once in the official newspaper of the municipality.
 - Give notice of a public hearing, which must be held at least 30 days prior to the meeting in which the resolution will be considered for adoption. The notice also must invite the participation of interested persons in planning and establishing the collection service.
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- Require the municipality, during the 90 days following adoption of the resolution, to develop a plan for organized collection service. The municipality must invite and use the assistance of all those operating solid waste or recyclables collection services, and these persons must be allowed to participate in the planning meetings. The bill sets forth the plan requirements, including (1) a description of how it will minimize displacement and economic impact to current solid waste collectors, and (2) a requirement to provide detailed justification for any tax, franchise or similar fee.
 - Require the municipality to provide 30 days' notice prior to the hearing on the proposed plan to all those operating relevant services in the municipality.
 - Prohibit the municipality from beginning organized collection service for a period of at least 18 months from the adoption of the ordinance or resolution. During this time, the municipality must not displace any person licensed to operate collection services in the municipality.
 - Require the planning process be started over if a municipality fails to implement an organized collection service by passage of an ordinance or resolution under the bill within one year of the passage of a resolution of intent.

- State the Act is to be applied to all municipalities regardless of the stage of development of an organized collection system, but would not apply to collection of waste tires as defined in statutes governing disposal of waste tires.

The bill would be effective upon publication in the *Kansas Register*.

Background

In 2010, HB 2701 was requested, based on concerns from private solid waste collection businesses that cities were changing from their currently contracted private haulers in a manner that was problematic to the contractors, given their capital and other investments. In addition to planning and notice requirements, 2010 HB 2701 would have required a municipality displacing a private hauler to institute condemnation proceedings and, if the municipality acquired any portion of the business through condemnation, to pay the fair market value of the business taken. At the bill's hearing, opponents, including the League of Kansas Municipalities (LKM) and the Kansas Association of Counties (KAC), agreed to meet with the private haulers who brought the bill to attempt a compromise. 2011 HB 2195 reflects that compromise attempt.

Testifying in support of the bill were representatives of several private solid waste collection businesses and the KAC. The KAC requested an amendment to reduce the two-year waiting period to 18 months, and to change the language regarding which newspaper was to be used for notification purposes to the "official newspaper" instead of the "newspaper of greatest circulation...."

A representative of the LKM opposed the bill, indicating the two-year waiting period between the plan's adoption and its implementation was too long. The LKM representative also objected to a provision in the original bill that would have

restricted the use of the franchise fees collected to administrative expenses.

The House Committee on Local Government amended the bill to do the following:

- Reduce the waiting period between the plan's adoption and its implementation from two years to 18 months;
- Change the newspaper in which the resolution of intent must be published from the newspaper of greatest circulation in the municipality to the official newspaper; and
- Eliminate language restricting the use of any tax, franchise or similar fee to the municipality's expense of administering the organized collection program.

The Senate Committee on Local Government heard proponent testimony from representatives of several private solid waste collection businesses, the KAC, and the Mid-America Tire Dealers Association. A representative of the LKM provided neutral testimony. No opponent testimony was presented.

The Senate Committee on Local Government amended the bill to specify that the Act would apply to all municipalities regardless of the state of development (amended from "state of implementation") of an organized collection system and would not apply to the collection of waste tires. The former amendment was requested by a representative of a private solid waste collection business, and the latter was requested by the Mid-America Tire Dealers Association.

According to the fiscal note, passage of the original bill might have an inestimable effect on cities choosing to establish organized collection services because of the process length, the number of notices and public hearings, and the time spent to develop the plan.