

New Legislation and Regulatory Developments

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Senate Bill 694

- Displacement of Private Haulers
- Storm-Generated Yard Trash
- FDEP Report concerning Plastic Bags

SB 694 - Displacement

- ▶ 1974 – Florida appellate court rules that Tampa can expand its collection services, even if it puts a private hauler out of business
- ▶ In the 1990s courts in Florida and elsewhere confirm that local governments can impose flow control regulations that adversely affect private haulers
- ▶ Such actions do not constitute a taking of property, impairment of contract, violation of antitrust laws, or otherwise violate the law

SB 694 - Displacement

- ▶ Haulers sought relief from the Florida Legislature, claiming they want a “level playing field”
- ▶ Section 403.70605, Florida Statutes, was adopted in 2000 because of “unfair competition”

SB 694 - Displacement

- ▶ Section 403.70605(3) restricts “displacement” of private haulers =
- ▶ Local government provides new collection service and prohibits hauler from continuing to provide its service

SB 694 - Displacement

- ▶ Under Section 403.70605(3), Florida Statutes, a local government cannot displace a private hauler unless:
 - ▶ It gives 3 years notice or pays an amount equal to the haulers' gross receipts for 15 months

SB 694 - Displacement

- ▶ Over the last 20 years . . .
 - ▶ All of the local governments implementing exclusive franchises gave notice and then waited 3 years
 - ▶ No one paid to shorten the 3 year notice period
- ▶ ,

SB 694 - Displacement

- ▶ Under SB 694, a local government must give 3 years' notice AND pay an amount equal to the haulers' gross receipts for 18 months
- ▶ SB 694 does not prohibit the negotiation of a different notice period or amount of compensation

SB 694 - Displacement

- ▶ Potential Ramifications of SB 694?
 - ▶ Local governments with open markets or non-exclusive franchise systems will not convert to an exclusive franchise system
 - ▶ Local governments with exclusive franchise systems for residential collections will not expand to include commercial waste or C&D debris

SB 694 - Displacement

- ▶ Effectively prevents local governments from providing a better waste management system for their residents
- ▶ Local government pays 7 years worth of profit to the hauler but receives no trucks, equipment, or other assets

SB 694 - Displacement

- ▶ SB 694 does not apply if the local government:
 - ▶ gave its 3-year notice on or before December 31, 2020
 - ▶ enacted a licensing or permitting program before May 1, 1999 and decides it will not renew its permit to the private hauler

SB 694 – Storm-Generated Yard Trash

- ▶ SB 694 amends Section 403.7071, Florida Statutes (Management of storm-generated debris).
- ▶ SB 694 creates a new definition for Storm-Generated Yard Trash (SGYT)

SB 694 – SGYT

- ▶ SGYT is vegetative matter that is:
 - ▶ eligible for federal reimbursement; and
 - ▶ placed curbside on public property within 15 days after a storm that is a federally declared disaster
- ▶ Under SB 694, a hauler is not required to collect SGYT unless its contract with a local government provides otherwise

SB 694 – FDEP Report on Plastic Bags

- ▶ SB 694 amends Section 403.7033, Florida Statutes
- ▶ In 2010 the FDEP issued a report concerning the use of plastic bags and other containers
- ▶ SB 694 requires the FDEP to issue an updated report to the Legislature by December 31, 2021

Senate Bill 7060 -FDEP's Biosolids Rule

- ▶ Rulemaking conducted through Fall 2020
- ▶ Legislature ratified changes to Chapter 62-640 because financial impacts were greater than \$1,000,000
- ▶ FDEP Webinar on May 27, 2021 to present proposed amendments to Biosolids Rule

Keep Florida Beautiful

- ▶ Legislature did not provide funding for Keep Florida Beautiful
- ▶ KFB will continue to operate this year but Legislature's failure poses hurdles going forward

Senate Bill 64 – Reclaimed Water

17

- ▶ WWTPs must eliminate surface water discharges of treated effluent by 2032
- ▶ Potable reuse projects are eligible for state funding
- ▶ Promotes residential use of gray water

Senate Bill 1954 – Statewide Flooding and Sea Level Rise

- ▶ By December 1, 2021, FDEP must prepare a Statewide Flooding and Sea Level Rise Resilience Plan
- ▶ By July 1, 2023, FDEP must prepare a statewide assessment of flood vulnerability and sea level rise
- ▶ FDEP may provide grants to local government for local vulnerability assessments

Senate Bill 72 -- Protection from Covid related lawsuits

- ▶ Protects local governments and private companies from lawsuits based on Covid-19
- ▶ Requires a “good faith” effort to comply with CDC/other guidelines
- ▶ No recovery unless “gross negligence is proven by clear and convincing evidence”

THAT'S ALL FOLKS!

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