

State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. **128**

01/22/2013 Authored by Slocum; Wagenius; Johnson, S., and Hoppe
The bill was read for the first time and referred to the Committee on Government Operations

03/20/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Environment and Natural Resources Policy

04/08/2013 Adoption of Report: Pass and re-referred to the Committee on Rules and Legislative Administration

04/15/2013 Adoption of Report: Pass and re-referred to the Committee on Commerce and Consumer Protection Finance and Policy

04/25/2013 Adoption of Report: Pass and Read Second Time

1.1 A bill for an act
1.2 relating to solid waste; amending process for cities to implement organized
1.3 collection of solid waste; amending Minnesota Statutes 2012, section 115A.94,
1.4 subdivisions 2, 5, by adding subdivisions; repealing Minnesota Statutes 2012,
1.5 section 115A.94, subdivision 4.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2012, section 115A.94, subdivision 2, is amended to read:

1.8 Subd. 2. **Local authority.** A city or town may organize collection, after public
1.9 notification and hearing as required in ~~subdivision 4~~ subdivisions 4a to 4d. A county
1.10 may organize collection as provided in subdivision 5. A city or town that has organized
1.11 collection as of May 1, 2013, is exempt from subdivisions 4a to 4d.

1.12 Sec. 2. Minnesota Statutes 2012, section 115A.94, is amended by adding a subdivision
1.13 to read:

1.14 Subd. 4a. **Committee establishment.** (a) Before implementing an ordinance,
1.15 franchise, license, contract, or other means of organizing collection, a city or town,
1.16 by resolution of the governing body, must establish an organized collection options
1.17 committee to identify, examine, and evaluate various methods of organized collection.
1.18 The governing body shall appoint the committee members.

1.19 (b) The organized collection options committee is subject to chapter 13D.

1.20 Sec. 3. Minnesota Statutes 2012, section 115A.94, is amended by adding a subdivision
1.21 to read:

1.22 Subd. 4b. **Committee duties.** The committee established under subdivision 4a shall:
1.23 (1) determine which methods of organized collection to examine, which must include:

2.1 (i) a system in which a single collector collects solid waste from all sections of
 2.2 a city or town; and

2.3 (ii) a system in which multiple collectors, either singly or as members of an
 2.4 organization of collectors, collect solid waste from different sections of a city or town;

2.5 (2) establish a list of criteria on which the organized collection methods selected
 2.6 for examination will be evaluated, which may include: costs to residential subscribers,
 2.7 miles driven by collection vehicles on city streets and alleys, initial and operating costs
 2.8 to the city of implementing the organized collection system, providing incentives for
 2.9 waste reduction, impacts on solid waste collectors, and other physical, economic, fiscal,
 2.10 social, environmental, and aesthetic impacts;

2.11 (3) collect information regarding the operation and efficacy of existing methods of
 2.12 organized collection in other cities and towns;

2.13 (4) seek input from, at a minimum:

2.14 (i) the governing body of the city or town;

2.15 (ii) the local official of the city or town responsible for solid waste issues;

2.16 (iii) persons currently licensed to operate solid waste collection and recycling
 2.17 services in the city or town; and

2.18 (iv) residents of the city or town who currently pay for residential solid waste
 2.19 collection services; and

2.20 (5) issue a report on the committee's research, findings, and any recommendations to
 2.21 the governing body of the city or town.

2.22 Sec. 4. Minnesota Statutes 2012, section 115A.94, is amended by adding a subdivision
 2.23 to read:

2.24 Subd. 4c. **Governing body; implementation.** The governing body of the city or
 2.25 town shall consider the report and recommendations of the organized collection options
 2.26 committee. The governing body must provide public notice and hold at least one public
 2.27 hearing before deciding whether to implement organized collection. Organized collection
 2.28 may begin no sooner than six months after the effective date of the decision of the
 2.29 governing body of the city or town to implement organized collection.

2.30 Sec. 5. Minnesota Statutes 2012, section 115A.94, is amended by adding a subdivision
 2.31 to read:

2.32 Subd. 4d. **Participating collectors proposal requirement.** Prior to establishing a
 2.33 committee under subdivision 4a to consider organizing residential solid waste collection, a
 2.34 city or town with more than one licensed collector must notify the public and all licensed

3.1 collectors in the community. The city or town must provide a 60-day period in which
 3.2 meetings and negotiations shall occur exclusively between licensed collectors and the
 3.3 city or town to develop a proposal in which interested licensed collectors, as members
 3.4 of an organization of collectors, collect solid waste from designated sections of the city
 3.5 or town. The proposal shall include identified city or town priorities, including issues
 3.6 related to zone creation, traffic, safety, environmental performance, service provided,
 3.7 and price, and shall reflect existing haulers maintaining their respective market share of
 3.8 business as determined by each hauler's average customer count during the six months
 3.9 prior to the commencement of the 60-day negotiation period. If an existing hauler opts to
 3.10 be excluded from the proposal, the city may allocate its customers proportionally based
 3.11 on market share to the participating collectors who choose to negotiate. The initial
 3.12 organized collection agreement executed under this subdivision must be for a period of
 3.13 three to seven years. Upon execution of an agreement between the participating licensed
 3.14 collectors and city or town, the city or town shall establish organized collection through
 3.15 appropriate local controls and is not required to fulfill the requirements of subdivisions
 3.16 4a, 4b, and 4c, except that the governing body must provide the public notification and
 3.17 hearing required under subdivision 4c.

3.18 Sec. 6. Minnesota Statutes 2012, section 115A.94, subdivision 5, is amended to read:

3.19 Subd. 5. **County organized collection.** (a) A county may by ordinance require
 3.20 cities and towns within the county to organize collection. Organized collection ordinances
 3.21 of counties may:

3.22 (1) require cities and towns to require the separation and separate collection of
 3.23 recyclable materials;

3.24 (2) specify the material to be separated; and

3.25 (3) require cities and towns to meet any performance standards for source separation
 3.26 that are contained in the county solid waste plan.

3.27 (b) A county may itself organize collection under ~~subdivision 4~~ subdivisions 4a to
 3.28 4d in any city or town that does not comply with a county organized collection ordinance
 3.29 adopted under this subdivision, and the county may implement, as part of its organized
 3.30 collection, the source separation program and performance standards required by its
 3.31 organized collection ordinance.

3.32 Sec. 7. **REPEALER.**

3.33 Minnesota Statutes 2012, section 115A.94, subdivision 4, is repealed.

4.1 Sec. 8. **EFFECTIVE DATE.**

4.2 This act is effective the day following final enactment.

115A.94 ORGANIZED COLLECTION.

Subd. 4. **Cities and towns; notice; planning.** (a) At least 180 days before implementing an ordinance, franchise, license, contract or other means of organizing collection, a city or town, by resolution of the governing body, shall announce its intent to organize collection and invite the participation of interested persons, including persons licensed to operate solid waste collection services, in planning and establishing the organized collection system.

(b) The resolution of intent must be adopted after a public hearing. The hearing must be held at least two weeks after public notice and mailed notice to persons known by the city or town to be operating solid waste collection services in the city or town. The failure to give mailed notice to persons or defect in the notice does not invalidate the proceedings, provided a bona fide effort to comply with notice requirements has been made.

(c) During a 90-day period following the resolution of intent, the city or town shall develop or supervise the development of plans or proposals for organized collection. During this 90-day planning period, the city or town shall invite and employ the assistance of persons licensed as of the date of the resolution of intent to operate solid waste collection services in the city or town. Failure of a licensed collector to participate in the 90-day planning period, when the city or town has made a bona fide effort to provide the person the opportunity to participate, does not invalidate the planning process.

(d) For 90 days after the date ending the planning period required under paragraph (c), the city or town shall discuss possible organized collection arrangements with all licensed collectors operating in the city or town who have expressed interest. If the city or town is unable to agree on an organized collection arrangement with a majority of the licensed collectors who have expressed interest, or upon expiration of the 90 days, the city or town may propose implementation of an alternate method of organizing collection as authorized in subdivision 3.

(e) The city or town shall make specific findings that:

(1) describe in detail the procedures it used to plan and to attempt implementation of organized collection through an arrangement with collectors who expressed interest; and

(2) evaluate the proposed organized collection method in light of at least the following standards: achieving the stated organized collection goals of the city or town; minimizing displacement of collectors; ensuring participation of all interested parties in the decision-making process; and maximizing efficiency in solid waste collection.

(f) Upon request, the city or town shall provide mailed notice of all proceedings on the organization of collection in the city or town.

(g) If the city or town and all the persons licensed to operate mixed municipal solid waste collection services and doing business in the city or town agree on the plan, the city or town may implement the plan without regard to the 180-day period specified in paragraph (a).