S T A T E O F N E W Y O R K

8138

I N S E N A T E

June 11, 2010

Introduced by Sen. C. JOHNSON -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, in relation to subscription garbage, trash or refuse collection and recycling service

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general municipal law is amended by adding a new section 97-a to read as follows:

S 97-A. DISPLACEMENT OF SUBSCRIPTION OF TRASH COLLECTION SERVICES. 1. NO MUNICIPALITY SHALL DISPLACE A PRIVATE COMPANY PROVIDING SUBSCRIPTION GARBAGE, TRASH OR REFUSE COLLECTION AND RECYCLING SERVICE WITHIN SUCH MUNICIPALITY WITHOUT FIRST:

(A) HOLDING AT LEAST ONE PUBLIC HEARING SEEKING COMMENT ON THE ADVISABILITY OF THE MUNICIPALITY PROVIDING SUCH SERVICE;

(B) PROVIDING AT LEAST FORTY-FIVE DAYS WRITTEN NOTICE OF THE HEARING, DELIVERED BY FIRST CLASS MAIL TO ALL PRIVATE COMPANIES THAT PROVIDE SUCH SUBSCRIPTION SERVICE IN THE MUNICIPALITY AND THAT THE MUNICIPALITY IS ABLE TO IDENTIFY THROUGH LOCAL GOVERNMENT RECORDS;

(C) PROVIDING PUBLIC NOTICE OF THE HEARING; AND

(D) MAKING A WRITTEN FINDING OF AT LEAST ONE OF THE FOLLOWING:

(I) THE USE OF PRIVATELY-OWNED AND OPERATED SUBSCRIPTION SERVICES HAS SUBSTANTIALLY ENDANGERED THE PUBLIC HEALTH; OR

(II) PRIVATELY-OWNED SERVICES, ALTHOUGH AVAILABLE, ARE NOT ABLE TO PROVIDE NEEDED SERVICES IN A REASONABLE AND COST-EFFICIENT MANNER.

2. AFTER MAKING THE FINDINGS REQUIRED BY THIS SECTION, AND NOT LONGER THAN ONE YEAR AFTER THE FINAL PUBLIC HEARING, THE MUNICIPALITY MAY PROCEED TO TAKE MEASURES NECESSARY TO PROVIDE SUCH SERVICE.

3. (A) A MUNICIPALITY SHALL PROVIDE FIVE YEARS NOTICE TO A PRIVATE COMPANY BEFORE IT ENGAGES IN THE ACTUAL PROVISION OF THE SERVICE THAT DISPLACES THE COMPANY.

(B) AS AN ALTERNATIVE TO DELAYING DISPLACEMENT FIVE YEARS, A MUNICIPALITY MAY PAY A DISPLACED COMPANY AN AMOUNT EQUAL TO THE COMPANY'S PRECEDING TWELVE MONTHS GROSS RECEIPTS FOR THE DISPLACED SUBSCRIPTION SERVICE IN THE DISPLACEMENT AREA. SUCH FIVE-YEAR PERIOD SHALL LAPSE AS

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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TO ANY PRIVATE COMPANY BEING DISPLACED WHEN SUCH COMPANY CEASES TO PROVIDE SERVICE WITHIN THE DISPLACEMENT AREA.

4. (A) FOR PURPOSES OF THIS SECTION, "DISPLACE" OR "DISPLACEMENT" MEANS A MUNICIPALITY'S ASSIGNMENT OF PROVISION OF A SERVICE WHICH PROHIBITS A PRIVATE COMPANY FROM PROVIDING THE SAME SERVICE AND WHICH THE COMPANY IS PROVIDING AT THE TIME THE DECISION TO DISPLACE IS MADE.

(B) DISPLACE OR DISPLACEMENT SHALL NOT MEAN:

(I) COMPETITION BETWEEN THE PUBLIC SECTOR AND PRIVATE COMPANIES FOR INDIVIDUAL CONTRACTS; OR

(II) SITUATIONS WHERE A MUNICIPALITY, 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.

S 2. This act shall take effect immediately.