

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1559 Recycling

SPONSOR(S): Rehwinkel and others

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture & Natural Resources Policy Committee		Thompson	Reese
2) Natural Resources Appropriations Committee			
3) General Government Policy Council			
4)			
5)			

SUMMARY ANALYSIS

The bill directs the Department of Environmental Protection (DEP) and Enterprise Florida, Inc. (EFI), to create the Recycling Business Assistance Center (Center) by July 1, 2010. The bill directs EFI to consult with state agency economic development liaisons and to coordinate between state agencies and the private sector on the strategy for developing new markets and expanding and enhancing existing markets for recyclable materials. The bill provides for specific duties of the Center.

The bill requires each county to reduce the amount of solid waste disposed of in landfills by 50 percent by 2012, 55 percent by 2014, 60 percent by 2016, 70 percent by 2018, and 75 percent by 2020 and provides that counties failing to meet and report such reduction requirements are to be placed on a noncompliance list posted on the DEP's website.

The bill requires the DEP to conduct at least one unannounced inspection annually at all waste-to-energy facilities to ensure that said facilities are in compliance with the solid waste permit conditions. Additionally, the DEP is required to give the facility only 24 hours' notice of a forthcoming inspection.

The bill provides a directive for EFI, in cooperation with the DEP, to contract with a solid waste consultant to conduct a study on the impact of the recycling industry on the state's economy and to submit the study to the Governor and the Legislature by January 1, 2011.

The bill repeals s. 288.1185, F.S., the Recycling Markets Advisory Committee, since it has been inactive for approximately 20 years. Also, the bill conforms a cross reference relating to the solid waste permitting section of law that is renumbered by the bill.

The mandates provision may apply because the bill arguably requires counties to spend funds or take actions requiring them to spend funds and reduces the authority of counties to raise total aggregate revenue over February 1, 1989, levels. The costs of implementing the new recycling goals and the amount of the reduction of revenues are indeterminate; therefore it is not known whether the bill is exempt due to having an insignificant fiscal impact.

Many of the bill's provisions will have no direct fiscal impact. Some of the provisions are expected to have an indirect fiscal impact on state and local governments and on the private sector. For details, see the FISCAL COMMENTS section of the analysis.

This bill's effective date is July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Recyclable Solid Waste

In 1988, the Florida Legislature passed the Solid Waste Management Act (SWMA) which included a 30% recycling goal. According to the Department of Environmental Protection (DEP), as of 2007, Florida generates more than 32 million tons of municipal solid waste annually and the state's average recycling rate is 28%.

The Energy, Climate Change and Economic Security Act of 2008 (ECCESA)¹ described the long term goals for state and local governments, companies, and the general public to reduce the amount of recyclable solid waste disposed of by a statewide average of at least 75 percent by 2020. The ECCESA directed the DEP to conduct public hearings and submit a report, by January 1, 2010, with recommendations, on how to reach the goal. DEP's report to the Legislature recommended:

- Each state agency should report to the Department of Management Services (DMS) its total expenditures on materials with recycled content;
- An increase in recycling education opportunities in K-12 public schools;
- Development of statewide recognition programs to reward citizens, schools, cities and municipalities recycling efforts;
- That the Legislature direct DEP to review in five years the number of local governments that have implemented pay as you throw (PAYT) to determine if additional measures are needed to increase the adoption of PAYT;
- That the Legislature require all construction and demolition (C&D) waste be processed at a materials recovery facility prior to disposal;
- That the Legislature require commercial recycling in counties with over a 100,000 population and cities with over 50,000 population;
- That the Legislature consider the creation of a landfill disposal fee;
- That the Legislature consider enacting a bottle bill to increase recycling of beverage containers;
- That the Legislature allow DEP to reduce or modify the composting goal;
- That the Legislature create a Recycling Business Assistance Center to promote markets for the entire spectrum of recyclable municipal solid waste materials; and

¹ (House Bill 7135) signed into law by Governor Crist created section 403.7032, F.S.

- Encourage the flow of materials such as food waste, yard trash, and paper to organic recycling centers, etc.

According to the DEP, section 403.706, F.S., requires each county to implement a recycling program designed to reduce the amount of solid waste disposed of by 30%. Counties with populations of 100,000 or less may offer their citizens an "opportunity to recycle" in lieu of achieving the 30% reduction. Counties are authorized to achieve up to half of the goal through converting wood waste to fuels for use in facilities other than waste-to-energy facilities. Counties and municipalities are encouraged to form cooperative arrangements for implementing such programs.

The Recycling Markets Advisory Committee (RMAC) was created in conjunction with the state's Advance Disposal Fee (ADF) on bottles. Housed in the Office of Tourism Trade and Economic Development (OTTED), its purpose was to advise on developing markets for the materials affected by the ADF. The ADF was in effect for two years (1993-1995), at which point the Legislature allowed it to sunset. Consequently, while RMAC is still in the statutes,² it has been inactive since the mid 1990's.

Enterprise Florida, Inc.

Enterprise Florida, Inc. (EFI),³ is a not-for-profit, public-private partnership that serves as Florida's statewide economic development organization. Florida law⁴ provides that EFI's mission is to diversify Florida's economy and create better-paying jobs for its citizens by supporting, attracting and helping create business in innovative, high-growth industries. EFI is funded by the Legislature and cash and in-kind donations from private businesses. The law⁵ provides that EFI is to aggressively market Florida's rural communities, distressed urban communities, brownfields, and enterprise zones as locations for potential new investment, to aggressively assist in the retention and expansion of existing businesses in these communities, and to aggressively assist these communities in the identification and development of new economic development opportunities for job creation. In support of its efforts, EFI is authorized to develop and implement programs or strategies that create and further Florida business, global business, and the import and export trade.

Proposed Changes

The bill directs the DEP and EFI to create the Recycling Business Assistance Center (Center) by July 1, 2010. The bill directs EFI to consult with state agency economic development liaisons⁶ and to coordinate between state agencies and the private sector on the policy and overall strategic planning for developing new markets and expanding and enhancing existing markets for recyclable materials in this state, other states, and foreign countries. Specifically, the duties of the Center must include:

- Identifying and developing new markets and expanding and enhancing existing markets for recyclable materials;
- Pursuing expanded end uses for recycled materials;
- Targeting materials for concentrated market-development efforts;
- Developing proposals for new incentives for market development, focusing on targeted materials;
- Providing guidance on issues such as permitting, finance options for recycling-market development, site location, research and development, grant program criteria for recycled materials markets, and recycling markets education and information;
- Coordinating the efforts of various governmental entities having market-development responsibilities in order to optimize supply and demand for recyclable materials;
- Evaluating source-reduced products as they relate to state procurement policy, which must include, but not be limited to, the environmental and economic impact of source-reduced product purchases to the state. The term "source-reduced" means any method that reduces the

² s. 288.1185, F.S.

³ Part VII, Chapter 288, F.S.

⁴ s. 288.9015, F.S.

⁵ s. 288.9015(2), F.S.

⁶ s. 288.021, F.S.

volume or weight of a product while providing similar performance and service to users of such materials;

- Providing innovative solid waste management grants,⁷ to reduce the flow of solid waste to disposal facilities and encourage the sustainable recovery of materials from Florida's waste stream;
- Providing below-market financing for companies that manufacture products from recycled materials or convert recyclable materials into raw materials for use in manufacturing, pursuant to the Florida Recycling Loan Program as administered by the Florida First Capital Finance Corporation;
- Maintaining a continuously updated online directory listing the public and private entities that collect, transport, broker, process, or remanufacture recyclable materials in the state;
- Providing information to private entities and industries in the state on the availability and benefits of using recycled materials;
- Distributing any materials prepared in implementing this subsection to the public, private entities, industries, governmental entities, or other organizations upon request; and
- Coordinating with the Agency for Workforce Innovation and its partners to provide job placement and job training services to job seekers.

The bill requires each county to reduce the amount of solid waste disposed of in landfills by 50 percent by 2012, 55 percent by 2014, 60 percent by 2016, 70 percent by 2018, and 75 percent by 2020. The bill provides that counties failing to meet such reduction requirements and failing to report to the DEP using the DEP's designated reporting format, are to be placed on a noncompliance list posted on the DEP's website.

The bill requires the DEP to conduct at least one unannounced inspection annually, at all waste-to-energy facilities, to ensure that said facilities are in compliance with their permit⁸ conditions. Additionally, the DEP is required to give the facility only 24 hours' notice of a forthcoming inspection.

The bill provides a directive for Enterprise Florida, Inc., in cooperation with the DEP, to contract with a solid waste consultant to conduct a study on the impact of the recycling industry on the state's economy and to submit the study to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2011.

The bill repeals the Recycling Markets Advisory Committee⁹ since it has been inactive for approximately 20 years. Also, the bill conforms a cross reference¹⁰ relating to the solid waste permitting section of law¹¹ that is renumbered by the bill.

B. SECTION DIRECTORY:

Section 1. Amends s. 288.90151, F.S., directing the Department of Environmental Protection (DEP) and Enterprise Florida, Inc. (EFI), to create the Recycling Business Assistance Center by a certain date; requiring EFI to consult with state economic development liaisons.

Section 2. Amends s. 403.702, F.S., directing the DEP and EFI to create the Recycling Business Assistance Center by a certain date; providing duties.

Section 3. Amends s. 403.706, F.S., requiring counties to meet specified goals in reducing the disposal of solid waste in landfills; providing for a noncompliance list.

Section 4. Amends s. 403.707, F.S., providing for inspections of waste-to-energy facilities by the DEP.

⁷ s. 403.7095, F.S.

⁸ s. 403.707, F.S.

⁹ s. 288.1185, F.S.

¹⁰ s. 403.703, F.S.

¹¹ s. 403.707, F.S.

Section 5. Directs EFI and the DEP to contract for a specified study and to submit the study to the Governor and the Legislature.

Section 6. Amends s. 403.703, F.S.; conforming a cross-reference.

Section 7. Repeals s. 288.1185, 16 F.S., relating to the Recycling Markets Advisory Committee.

Section 8. Provides that the bill will take effect on July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments below.

2. Expenditures:

See Fiscal Comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments below.

2. Expenditures:

See Fiscal Comments below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments below.

D. FISCAL COMMENTS:

The bill provides for the development of new markets and expanding and enhancing existing markets for recyclable materials through the creation of the Recycling Business Assistance Center. These activities could lead to developments that may create positive fiscal impacts on the private sector and state and local governments. According to DEP, until the funding for the Recycling Business Assistance Center is established, it is difficult to estimate total revenues and expenditures to DEP.

Various counties and private businesses rely on landfills as a revenue source. Recycling rather than landfilling additional solid waste will likely reduce related revenues for county governments and the private sector. Also, the proposed county recycling requirements will likely increase related expenditures for counties. As the cost of implementing a new goal is difficult to determine, the fiscal impact to counties and the private sector is indeterminate.

According to DEP, "the more successful the proposed recycling initiatives are, the more economic benefits will accrue to that part of the private sector involved with processing and markets for recyclable materials. Various studies have shown that recycling creates more jobs directly and indirectly than disposal. Success of the proposed recycling initiatives in the bill should result in more competition and increased employment opportunities in both the private and the public sector."

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Article VII, section 18(a) of the state constitution provides that counties or municipalities shall not be bound by laws requiring them to spend funds or take actions requiring them to spend funds unless the law fulfills an important state interest and the law is passed by 2/3 of the membership of each house of the Legislature. Additionally, Article VII, section 18(b) of the state constitution prohibits the Legislature from enacting, amending or repealing any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989.

The bill requires counties to achieve solid waste reduction goals. Meeting such goals will require counties to increase expenditures and will reduce the amount of taxable solid waste currently being received by landfills. Due to these requirements, the mandates provision may apply because the bill arguably requires counties to spend funds or take actions requiring them to spend funds and reduces the authority of counties to raise total aggregate revenue over February 1, 1989, levels. The costs of implementing the new recycling goals and the amount of the reduction of revenues are indeterminate; therefore it is not known whether the bill is exempt due to having an insignificant fiscal impact.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to Enterprise Florida, Inc. (EFI): the bill is not consistent with EFI's mission. EFI has a specific mission to diversify Florida's economy through innovative, high-tech, high wage businesses; does not develop new markets within the state, rather it identifies existing markets within Florida that can be further developed; and is already able to assist recycling businesses that qualify under the incentive program.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES