

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7243 PCB GGPC 10-02 Environmental Control
SPONSOR(S): General Government Policy Council, Troutman and Williams, T.
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	General Government Policy Council	15 Y, 0 N	Thompson	Hamby
1)	_____	_____	_____	_____
2)	_____	_____	_____	_____
3)	_____	_____	_____	_____
4)	_____	_____	_____	_____
5)	_____	_____	_____	_____

SUMMARY ANALYSIS

The bill deletes a duplicative reporting requirement in the Florida Climate Protection Act. The bill strengthens provisions related to the statewide comprehensive recycling program, requiring state agencies, K-12 public schools, public institutions of higher learning, community colleges, and state universities, including all buildings that are occupied by municipal, county, or state employees and entities occupying buildings managed by the Department of Management Services (DMS), to report recycling rates to their county. Exceptions to such requirements are provided for local governments meeting specific criteria. The DMS is directed to modify its procurement system to track the state's purchases of green and recycled materials. The Department of Environmental Protection (DEP) is directed to create the Recycling Business Assistance Center (center) to develop new markets for recyclable materials and to seek technical assistance from Enterprise Florida, Inc. (EFI).

The bill requires all Materials Recovery Facilities to report to DEP and the counties. The DEP is to report to the Legislature the state's recycling rates every two years. The bill outlines incremental recycling goals and specific benchmarks for the state, counties, and cities that must be reached by December 31, 2020. To attain such goals, counties must include a program to recycle construction and demolition debris. New commercial and multifamily construction projects, where counties provide containment vessels, must provide for recycling. DEP is to investigate and report to the Legislature programmatic changes that could assist in achieving the recycling goals. The DEP is authorized to direct counties that have not met the recycling goals to expand recycling programs to existing commercial and multifamily dwellings. The bill also, authorizes local governments to require multi-family dwellings and apartment complexes to offer recycling programs. The bill deletes a county composting requirement.

The bill allows renewable energy facilities to count a certain amount of the megawatts they produce towards the state recycling goal and incentivizes renewable energy producing counties that maintain a program to recycle at least 50% of municipal solid waste by means other than creating renewable energy. The bill requires all newly permitted and lateral expansions of construction and demolition (C&D) disposal units, to be lined, and provides an exemption upon demonstration by DEP that a liner is not necessary. The bill requires the reporting of processed C&D debris, and if economically feasible, all construction and demolition debris to be processed prior to disposal, at a permitted waste processing or disposal facility. Materials that have already been processed for recycling exempted from the C&D processing requirement.

The bill reduces the scope of the solid waste management grant program, eliminating the competitive innovative grant program. The bill requires DEP to create a recycling pilot program for the Capitol recycling area, requires the Capitol buildings to report recycling rates to Leon County, to post these rates on DEP's website, and requires public airports to recycle and to retain associated economic benefits to offset related costs. The bill requires the Florida Building Commission to develop recycling recommendations and repeals the outdated Recycling Markets Advisory Committee.

Many of the provisions of the bill are expected to have a direct fiscal impact on state and local governments, and the private sector. (See Fiscal Comments) The mandates provision may apply because the bill requires counties to spend funds or take actions requiring them to spend funds and reduces the authority of counties to raise revenue. 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.

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

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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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.

Section 403.706, F.S., requires each county to implement a recycling program designed to reduce the amount of solid waste disposed of by thirty percent. 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 (WTE) facilities. Counties and municipalities are encouraged to form cooperative arrangements for implementing such programs.

Composting Requirements

Currently local governments are directed to develop and implement a plan to achieve a goal to compost organic materials that would otherwise be disposed of in a landfill. The goals provide that up to 10 percent and no less than 5 percent of organic materials should be composted within the county. DEP may reduce the counties compost goal if the county can demonstrate that due to their unique demographics or other factors they have an inability to separate compostable materials.

Recyclable Materials Markets

According to DEP's report, of the 32.3 million tons of municipal solid waste (MSW) generated in Florida, approximately 40% is organic materials such as food waste, yard trash and paper. The recycling rate for food waste is 1.4%, 37% for yard trash, and 27% for paper. Florida's counties play a crucial role in organics recycling because they handle large amounts of organic wastes from all sources. State regulations, market conditions and other economic circumstances all affect the potential success of organics recycling in Florida. State programs can stimulate technological advances and new uses through market development and procurement policies. While existing school recycling programs generally address paper, aluminum cans and sometimes plastic bottles, the composting of food wastes at schools could allow students to increase the recycling rate, provide high quality soil to the school grounds, and present a real world learning opportunity for teachers.

Another aspect of market development that can be fine tuned to fit the needs of each region is the material recovery facilities. The cost associated with materials recovery facilities vary according to geographic location and the needs of the community. A north Florida facility processing 500 tons per day of construction and demolition debris reports an estimated capital cost of \$7.5 million to become operational, while a South Florida facility that processes 2,500 tons per day or more reports an estimated capital cost of \$13.6 million.

Solid Waste Management

Section 403.7046, F.S., directs the DEP to create a technical advisory committee including representatives from local waste management and recycling communities to develop rules and to elicit comment of the types of recovered materials handled at disposal sites and waste facilities. DEP indicates that this committee has already fulfilled its requirements and the technical advisory committee has disbanded.

According to DEP's report, recycling operations at Florida's 12 WTE facilities could account for roughly 12% of the 75% goal. Through the mass combustion of MSW (Municipal solid waste) and refuse-derived fuel Florida's WTE facilities generate 3.25 million megawatts of energy per year, which is enough electricity to fuel 300,000 households for one year. Currently, the law allows renewable energy from solid waste to count toward the 75% goal. However, according to DEP's report, measuring the contribution of the waste to energy facilities is challenging. DEP stated that they intend to appoint an advisory group to address what methodology should be utilized to calculate and credit WTE's production.

The commercial sector generates 67% of the MSW, which is twice what is generated by single-family residents. The commercial sector has a current recycling rate of 30%. However, during the public

hearings DEP conducted, recycling input from a variety of commercial entities suggests their commercial rates may be much higher. The commercial sector is not required to disclose their recycling rates to DEP, so it is difficult, if not impossible, for DEP to know the commercial sector's recycling rate. The DEP recommends requiring the reporting of commercial recycling for those businesses in counties with a population greater than 100,000 and cities with a population greater than 50,000. This approach could cover approximately 95% of Florida's population, and, if the recycling rate in the commercial sector was at least 75%, the MSW recycling rate in Florida, according to the DEP, would increase from 28% to 59%.

Commercial buildings and multi-family dwellings offer recycling but the options vary from city to city and building to building. In some cases, a business would have to arrange for recycling pick up or in smaller rural communities the items would have to be hauled to a recycling center. Depending on the volume of recyclable materials the businesses generates, it may make it cost prohibitive for smaller businesses and rural communities to recycle when economically practical options are not made available. In some commercial buildings and multi-family dwellings like apartment complexes, the recycling options can depend on dumpster space limitations and parking space requirements. During DEP's public hearings on recycling, it was suggested that commercial buildings and multi-family dwellings need guidance from the state and their respective cities to secure recycling options in these locations. Rural communities are encouraged to regionally pool their resources together in order to make recycling options a reality. Many large facilities, such as schools and correctional facilities, have recycling options in place, but public testimony suggested that due to employee complacency, sham recycling, and a lack of education, many recycling campaigns have fizzled out. Based on the reporting void and volume of recyclable materials in a concentrated building or area, the commercial sector has the potential of being a significant underutilized recycling market.

C&D debris consists of materials that are generated from residential and commercial buildings, renovations and various types of demolition. C&D materials include wood, steel, glass, brick, concrete, asphalt, wallboard, rock, soils, tree remains, and other vegetative matter. Only non-water soluble and non-hazardous materials are considered C&D. C&D constitutes 25% of Florida's MSW waste stream. Currently only 27% or 2.1 million tons of Florida's C&D is recycled. According to the DEP, the recycling potential of C&D remains a significant untapped resource. An April, 2005, study conducted by the Boston Society of Architects, Associated General Contractors of Massachusetts, and the Massachusetts Department of Environmental Protection found that from almost any job site, 90% to 95% of all waste materials can be recycled². In an effort to increase recycling of C&D, other states such as Massachusetts, California, and Vermont have banned disposing of most C&D debris in landfills. Further, these states have established comprehensive recycling guides and have imposed penalties to ensure these recyclable materials are not placed in landfills and to preserve virgin materials whenever possible. Some cities have chosen to establish benchmarks to address their state's ban on placing C&D in the landfill. For example, Northbrook, Illinois, has specified the following: between January 1, 2009, and December 31, 2010, at least 50% of the construction and demolition debris must be recycled.

In order to help states increase their recycling efforts, the United States Environmental Protection Agency has detailed guidelines and definitions that outline what C&D materials can be recycled. The site describes commonly recovered materials including asphalt paving, land clearing residuals (trees, brush, and soil), wood, gypsum wallboard, metal, concrete, roofing, asphalt shingles, brick, etc.³ The site showcases cities that are utilizing zero waste policies in their C&D projects and outlines the importance of having a plan in place before demolition begins. Further it outlines the cost savings benefits and how much waste can be diverted from the landfill.

Florida has 83 landfills and 75 C&D disposal sites where C&D can be disposed. Most C&D disposal sites are unlined and are not required to have daily cover like permitted landfills. DEP has indicated that unlined C&D landfills are environmentally problematic due to adverse ground water impacts.

² Recycling Construction and Demolition Wastes Guidebook, Massachusetts Department of Environmental Protection.

³ <http://www.epa.gov/epawaste/conserves/rrr/imr/cdm/bytype.htm> (last visited 3/7/010)

Solid Waste Grants

The solid waste management grant program⁴ requires DEP to develop a competitive and innovative grant program for counties, municipalities, special districts, and nonprofit organizations that are responsible for solid waste management services. Applicants for such grants must demonstrate:

- technologies or processes that represent a novel application of an existing technology or process to recycle or reduce waste, or that overcome obstacles to recycling or waste reduction in new or innovative ways;
- innovative processes to collect and recycle or reduce materials targeted by the department and the recycling industry; or
- effective solutions to solving solid waste problems resulting from waste tires, particularly in the areas of enforcement and abatement of illegal tire dumping and activities to promote market development of waste tire products.

The DEP is required to include such grant proposals in its annual budget request to the Governor and Legislature. Funds from the solid waste management trust fund⁵ are distributed to the grant program in the following manner:

- Up to 15% for the innovative grant program;
- Up to 35% for the small county grant program; and
- Up to 50% for the waste tire grant program.

For the 2009-2010 fiscal year, the DEP is required to equally award \$2,600,000 in grants to counties with populations fewer than 100,000 for waste tire and litter prevention, recycling education, and general solid waste programs. This requirement expires July 1, 2010.

Florida Building Commission

The Florida Building Commission⁶ (commission) is authorized to adopt and promote recommendations that are appropriate to determine and ensure enforcement and compliance with the Florida Building Code. The commission is located within the Department of Community Affairs for administrative purposes and members are appointed by the Governor subject to confirmation by the Senate. The commission is given specific powers and duties⁷ in order to carry out its mission.

Enterprise Florida, Inc.

Enterprise Florida, Inc. (EFI),⁸ is a not-for-profit, public-private partnership that serves as Florida's statewide economic development organization. Florida law⁹ 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 law¹⁰ 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.

⁴ s. 403.7095, F.S.

⁵ s. 403.709(1)(e), F.S.

⁶ s. 553.76, F.S.

⁷ s. 553.77, F.S.

⁸ Part VII, Chapter 288, F.S.

⁹ s. 288.9015, F.S.

¹⁰ s. 288.9015(2), F.S.

Proposed Changes

The bill amends s. 403.44, F.S., to:

- Delete a duplicative reporting requirement in the Florida Climate Protection Act, that major greenhouse gas emitters report to The Climate Registry.¹¹ The Environmental Protection Agency currently requires such reporting¹²; and
- Delete a DEP requirement to establish the methodologies, reporting periods, and reporting systems to be used when major emitters report to The Climate Registry.

The bill amends s. 403.7032, F.S., to:

- Reword the state long-term recycling goal to place more of an emphasis on recycling municipal solid waste rather than reducing the amount of recyclable solid waste;
- Require each state agency, K-12 public school, public institution of higher learning, community college, and state university to annually report, utilizing DEP's reporting format, to their county their recycling rates on all recyclable materials collected;
- Exempt a fiscally constrained county as defined in s. 218.67(1), F.S., or a municipality experiencing a financial emergency as defined in s. 200.185(1)(b), F.S., with a per capital taxable value of assessed property less than \$58,000, or any municipality with a population less than 20,000 with a per capital taxable value of assessed property that does not exceed \$46,000;
- Strongly encourage private businesses, other than Certified Recovered Materials Dealers, to report their recycling rate to the county biennially starting January 1, 2011, utilizing the DEP's designated reporting format;
- Authorize businesses that choose to contract with local entities to remove recyclables to submit appropriate verification to the DEP and be considered as reporting a recycling rate;
- Encourage private businesses that are not required to report to participate in reporting their recycling rates.
- Direct the Department of Management Services to modify their online procurement system to track the state's purchases of green and recycled materials by September 30, 2011;
- Direct the DEP to create the Recycling Business Assistance Center (Center) by July 1, 2010, and to consult with state agency economic development liaisons and to seek technical assistance from Enterprise Florida, Inc. The purpose of the center will be 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:
 - Identify and developing new markets and expanding and enhancing existing markets for recyclable materials;
 - Pursue expanded end uses for recycled materials;
 - Target materials for concentrated market-development efforts;
 - Develop proposals for new incentives for market development, particularly focusing on targeted materials;
 - Provide guidance on issues such as permitting, finance options for recycling market development, site location, research and development, grant program criteria for recycled materials markets, recycling markets education and information, and minimum content;
 - Coordinate the efforts of various governmental entities having market-development responsibilities in order to optimize supply and demand for recyclable materials;

¹¹ The Climate Registry is a non-profit organization established in 2007 to calculate and publicly report greenhouse gas emissions into a single registry.

¹² The U.S. Environmental Protection Agency's Mandatory Reporting of Greenhouse Gases Rule (EPA-HQ-OAR-2008-0508-2278), effective December 29, 2009, requires reporting of greenhouse gas (GHG) emissions from large sources and suppliers in the United States, and is intended to collect emissions data to inform future policy decisions. Under the rule, suppliers of fossil fuels or industrial greenhouse gases, manufacturers of vehicles and engines, and facilities that emit 25,000 metric tons or more per year of GHG emissions are required to submit annual reports to EPA.

- Evaluate source-reduced products as they relate to the state procurement policy, including, but not limited to, the environmental and economic impact of source-reduced product purchases to the state. The term "source-reduced" means any method, process, product, or technology that significantly or substantially reduces the volume or weight of a product while providing, at a minimum, equivalent or generally similar performance and service to and for the users of such materials;
- Provide evaluation of solid waste management grants, pursuant to s. 403.7095, to reduce the flow of solid waste to disposal facilities and encourage the sustainable recovery of materials from Florida's waste stream;
- Provide 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;
- Maintain a continuously updated online directory, listing the public and private entities that collect, transport, broker, process, or remanufacture recyclable materials in the state;
- Provide information on the availability and benefits of using recycled materials to private entities and industries in the state;
- Distribute any materials prepared in implementing this subsection to the public, private entities, industries, governmental entities, or other organizations upon request; and
- Coordinate with the Agency for Workforce Innovation and its partners to provide job placement and job training services to job seekers through the state's workforce services programs.

The bill amends s. 288.9015, F.S., to specify that Enterprise Florida, Inc., is to only provide technical assistance to the DEP to ensure that the Recycling Business Assistance Center is positioned to succeed.

The bill amends s. 403.7046, F.S., to:

- Delete an obsolete technical advisory committee appointed by the DEP to aid in the development of rules related to the regulation of recovered materials. The committee is made up of nine persons, including, representatives of the Florida Association of Counties, Florida League of Cities, Florida Recyclers Association, and the Florida Chapter of the National Solid Waste Management Association;
- Creates reporting requirements for recovered materials dealers to report by February 1, annually, to DEP and to all of the counties from which it receives materials.

The bill amends s. 403.705, F.S. to require the DEP to report to the Legislature the state's recycling rates every two years, and to conform a cross-reference.

The bill amends s. 403.706, F.S., to:

- Provide incremental recycling benchmarks that counties must reach by December 31, 2020. Each county must implement a recycling program with a goal to recycle 40% by December 31, 2012, 50% by December 31, 2014, 60% by December 31, 2016, 70% by December 31, 2018, and 75% by December 31, 2020. Each county must include a program to recycle construction and demolition debris to attain these goals;
- Require commercial and multifamily construction projects, including, but not limited to, apartment complexes, which began construction on or after July 1, 2010, where counties provide containment vessels, to provide an opportunity for the tenants and owners to recycle, including, if necessary, designated space for the placement of recycling receptacles for the occupants;
- Specify that if by January 1, of 2013, 2015, 2017, 2019, or 2021, a county has not reached the previous year's recycling goals, DEP is authorized to direct the county to develop a plan to expand recycling programs to existing commercial and multi-family dwellings, including, but not limited to, apartment complexes;
- Provide incremental recycling benchmarks that the state must reach by December 31, 2021. If the state's recycling rate for the 2013 calendar year is below 40%, or below 50% by January 1,

2015, or below 60% by January 1, 2017, or below 70% by January 1, 2019, or below 75% by January 1, 2021, the DEP is required to provide a report to the Legislature no later than 30 days prior to the 2015 Regular Session of the Legislature. The report must identify additional programs or statutory changes needed to achieve the goals provided. If the state reaches said recycling goals then the DEP is not required to provide said report;

- Provide the DEP with rulemaking authority to establish methods and criteria to be used by a county in calculating the state recycling rates;
- Delete a requirement that all counties develop a goal to compost at least five percent of their organic materials, and include composting as one of the activities that counties are encouraged to consider;
- Allow renewable energy facilities to count each megawatt hour they produce using solid waste as a fuel, as one ton of recycled material and be applied to the recycling goals, as set forth in this section. As an incentive, a county creating renewable energy from solid waste that implements and maintains a program to recycle at least 50% of municipal solid waste by means other than creating renewable energy, is authorized to count two tons of recycled material for one megawatt hour produced. If waste originates from a different county than where the renewable energy facility resides, the originating county will receive the recycling credit. Any county that has a debt service payment related to its waste to energy facility will receive one ton of recycled materials credit for every ton of solid waste processed at such facility. Byproducts resulting from the creation of renewable energy will not count as waste.
- Revise old solid waste requirements and references to conform to new requirements.
- Revise the annual county recycling reporting date from November, to April 1, each year and specify such requirements are a minimum;
- Require the DEP to annually, by July 1, post on its website the recycling rates of each county for the prior calendar year;
- Authorize local governments to enact ordinances to require multi-family dwellings and apartment complexes to recycle;

The bill amends s. 403.7061, F.S., to delete the requirement that all new and expanding waste-to-energy facilities to achieve a waste reduction goal and deletes the exemption for counties that have a population of fewer than 100,000.

The bill amends s. 403.707, F.S., to:

- Require liners and leachate collection systems at individual disposal units and lateral expansions of existing disposal units that receive construction permits after July 1, 2010.
- Exempt said requirement if the DEP demonstrates that a liner is not necessary;
- Require by January 1, 2012, the amount of construction and demolition (C&D) debris processed and recycled prior to disposal at a permitted materials recovery facility or at any other permitted disposal facility to be reported by the county of origin to the DEP and the county on an annual basis in accordance with rules adopted by the DEP. Such rules are to establish criteria to insure accurate and consistent reporting for purposes of determining the recycling rate in s. 403.706, F.S.;
- To the extent economically feasible, require all construction and demolition debris to be processed prior to disposal, either at a permitted waste processing facility or a permitted disposal facility; and
- Exempt from the C&D requirements, materials that have been source separated and offered for recycling or materials that have been previously processed.

The bill amends s. 403.7095, F.S., to:

- Eliminate the eligibility and criteria for counties with populations over 100,000 to receive competitive and innovative solid waste management grant funds;
- Eliminate the requirement that DEP include such grant proposals in its annual budget request;
- Revise the amounts of funds from the solid waste management trust fund that are distributed to the revised grant program by eliminating the 15% allocation for the innovative solid waste management grant, and increasing the 35% allocation for the small county grant to 50%;
- Eliminate the two obsolete provisions related to the awarding of grant funds to certain counties;

- One requires DEP to equally award \$2,600,000 in grants to counties with populations fewer than 100,000 for waste tire and litter prevention, recycling education, and general solid waste programs. This requirement expires July 1, 2010.
- The other requires, for the 2008-2009 fiscal year, the DEP to award \$9,428,773 in grants equally to counties with populations fewer than 100,000 for waste tire and litter prevention, recycling education, and general solid waste programs, and \$2,000,781 to be used for the Innovative Grant Program. This requirement expired July 1, 2009.

The bill amends s. 403.7145, F.S. to:

- Require that the Capitol complex report recycling rates to Leon County and that these rates be posted on the DEP's website. The DEP will also post the recycling rates of each state owned facility that is a part of a Department of Management Service's (DMS) facility. A DMS facility refers to the majority of state owned buildings that are a part of the Capitol complex and the Southwood office complexes located in Tallahassee;
- Require the DEP to conduct a pilot project for the Capitol recycling area, designed to collect recyclable materials and create a more sustainable recycling system;
- Require the project to be designed to increase convenience, incentivize and measure participation, reduce material volume, and assist in achieving the recycling goals enumerated in s. 403.706, F.S., to test the effectiveness of innovative recycling practices and technologies;
- Require each airport operating in the state, to the greatest extent practicable, to collect aluminum beverage cans and recyclable plastic and glass from the airlines and other entities doing business at the airport and offer such materials for recycling;
- Authorize such airports to retain the economic benefit of these activities to offset associated costs; and
- Encourage airport administration offices, airport vendors, and airlines to coordinate the collection of recyclable waste to the greatest extent practicable. The bill provides the airport recycling provisions are not intended to interfere with any established recycling activity.

The bill amends s. 553.77, F.S., to require that the Florida Building Commission develop recommendations that increase residential and commercial recycling and composting, and that strongly encourage the use of recyclable materials and the recycling of construction and demolition debris.

The bill amends s. 403.7049, F.S., to conform statutory cross-references relating to solid waste management fees.

The bill repeals s. 288.1185, F.S., the Recycling Markets Advisory Committee in the Office of Tourism, Trade, and Economic Development.

B. SECTION DIRECTORY:

Section 1. Amends s. 288.9015, F.S.; requiring Enterprise Florida, Inc., to provide technical assistance to the DEP in the creation of the Recycling Business Assistance Center;

Section 2. Amends s. 403.44, F.S.; revising the greenhouse gas reporting requirement for major emitters; deleting a requirement for the Department of Environmental Protection (DEP) to take certain actions related to the reporting requirement;

Section 3. Amends s. 403.7032, F.S.; requiring all public entities and those entities occupying buildings managed by the Department of Management Services (DMS) to report recycling data to the county using the format designated by the DEP; providing an exemption; encouraging certain private entities to report the disposal of recyclable materials; requiring the DMS to report on green and recycled products purchased through its procurement system; directing the DEP to create the Recycling Business Assistance Center; providing requirements for the center;

Section 4. Amends s. 403.7046, F.S.; deleting a requirement that the DEP appoint a technical advisory committee; clarifying reporting requirements;

Section 5. Amends s. 403.7049, F.S.; conforming a cross-reference;

Section 6. Amends s. 403.705, F.S.; conforming a cross-reference; requiring that the DEP report biennially to the Legislature on the state's success in meeting solid waste reduction goals;

Section 7. Amends s. 403.706, F.S.; revising requirements for the implementation of recyclable materials recycling programs by counties; providing Legislative intent; providing authority for the DEP to require a plan under certain conditions; requiring a report to the Legislature by the DEP if recycling benchmarks are not met; requiring the DEP to adopt rules; eliminating a requirement that counties develop composting goals; encouraging counties to develop composting plans; clarifying the conditions under which renewable energy may be used as an option for meeting the recycling benchmarks; providing deadlines for the reporting of recycling data; revising requirements for the enactment of ordinances by local governments relating to programs for the separation of recyclable materials;

Section 8. Amends s.403.7061, F.S.; revising the requirements for review of new waste-to-energy facility capacity by the DEP; deleting an exemption;

Section 9. Amends s. 403.707, F.S.; requiring liners for new construction and demolition debris landfills; providing reporting requirements for certain construction and demolition debris; requiring the DEP to adopt rules; providing rule requirements; providing an exemption;

Section 10. Amends s. 403.709, F.S., conforming a cross reference.

Section 11. Amends s. 403.7095, F.S.; deleting application requirements for the solid waste management program; deleting a requirement for the DEP to evaluate and prioritize proposals for inclusion in its annual budget request;

Section 12. Amends s. 403.7145, F.S.; revising recycling requirements for state buildings; providing for a pilot project; requiring each public airport in the state to collect aluminum beverage cans and recyclable plastic and glass from the entities doing business at the airport and to offer such materials for recycling;

Section 13. Amends s. 553.77, F.S.; authorizing the Florida Building Commission to develop recommendations for recycling and composting;

Section 14. Repeals s. 288.1185, F.S., relating to the Recycling Markets Advisory Committee;

Section 15. 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:

None

2. Expenditures:

The bill requires the DEP to develop and contract for a recycling pilot project for the Capitol recycling area. As written, this may incur a negative fiscal impact to the DEP. Based on discussions with the DEP, the related fiscal impact is unknown at this time.

The bill provides for recycling reporting requirements for state agencies and the Capitol recycling area, and requires the DEP to create and operate the Recycling Business Assistance Center (Center). According to the DEP:

“recycling reporting requirements for state agencies and Capitol area state buildings would create some minimal costs. The new duties of the Recycling Business Assistance Center can be handled by the Department with existing budget authority.”

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Various counties rely on landfills as a revenue source. The bill requires counties to achieve solid waste reduction goals, which would divert materials away from landfills. Recycling rather than landfilling additional solid waste will likely reduce related revenues for county governments. The related fiscal impact to counties may be significant.

Incentivizing counties that create renewable energy from solid waste and that implement and maintain a program to recycle 50% of municipal solid waste by means other than creating renewable energy, will likely divert such materials away from landfills, and thus, reduce landfill revenues for county governments. The related fiscal impact is indeterminate because it is unknown how many such counties will implement and maintain a program to recycle 50% of municipal solid waste by means other than creating renewable energy.

2. Expenditures:

Implementing and carrying out the proposed county recycling requirements will likely increase related expenditures for counties. As implementing costs are difficult to forecast, the related fiscal impact to counties is indeterminate.

If a county has not reached the previous year's recycling goals, DEP is authorized to direct the county to develop a plan to expand recycling programs. This may require the expenditure of funds, thus, county governments that fail at their efforts to meet the proposed recycling benchmarks may experience an additional negative fiscal impact.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Recycling diverts materials away from landfills. Various private businesses rely on landfills as a revenue source. The new recycling goals would likely divert additional solid waste from landfills. This may have a significant negative impact to those private businesses that own landfills.

Requiring all C&D to be processed at a materials recovery facility or other similar facility may have positive or negative impacts to the private sector depending on whether or not an entity is paying for or providing such processing. Any costs associated with processing solid waste are indeterminate but may likely be minimal because similar activities are currently required under the law.¹³

The new recycling reporting requirements for businesses may have an indeterminate fiscal impact. The cost would be conditional upon whether or not these businesses are currently tracking this type of data.

There may be some initial costs for airports to establish a practicable recycling infrastructure (bins and carts) if there isn't a system already in place. The bill allows the retention of the economic benefit from the sale of recyclable materials to offset their costs.

The bill requires new commercial and multifamily construction projects, including, but not limited to, apartment complexes, where counties provide containment vessels, to provide space for the placement of recycling receptacles. Currently, all counties provide receptacles for recycling. Based on

¹³ s. 403.707(12), F.S., requires construction and demolition debris to be separated from the solid waste stream and segregated in separate locations at a solid waste disposal facility or other permitted site.

discussions with the retail industry, requiring a store to accommodate a recycling receptacle would reduce its usable footprint and as a consequence, the loss of square footage may have a negative impact to the bottom line of businesses, statewide. It is unknown how many new commercial or multifamily construction projects will take place in the future, thus, the fiscal impact of this provision is indeterminate.

D. FISCAL COMMENTS:

The bill requires all new C&D landfills to be lined. Based on discussions with the industry and DEP, a new C&D landfill needs to be at least 40 acres in size. Also, according to DEP, the estimated cost of a bottom geomembrane C&D liner is approximately \$140,000 per acre and approximately \$97,500 per acre for a topside liner for closure. Therefore, a new C&D landfill will cost approximately \$5.6 million to line, and approximately \$3.9 million to close with a topside liner. Existing C&D landfills are not required to be retrofitted and will not incur any additional costs. Tip fees are also a cost factor. The state average per ton tip fee for C&D debris is \$35. In the event a county or private entity constructs a new C&D site, all of the above costs will be incurred.

Depending on whether a 40 acre C&D site operates 286 days annually and receives 500 or 1,000 tons of debris per day, charging \$35 per ton of solid waste will earn such sites approximately \$5 million to \$10 million in annual revenue. Given the cost of the liners, which would be approximately \$9.5 million for both the top and bottom, annual revenues for new C&D debris landfills may be significantly negatively affected. Also, depending on said factors, and according to the DEP, the average 40 acre C&D landfill could hold approximately 2.4 million tons of waste and should reach total capacity and require the construction of a new site approximately every 8 to 16 years.

The bill revises the amount of funds distributed from the Solid Waste Management Trust Fund, reflecting the revisions the bill makes to the solid waste management grant program, by eliminating the 15 percent allocation for the innovative solid waste management grant, and increasing the 35 percent allocation for the small county grant to 50 percent. Said changes should not affect revenues or expenditures to the solid waste management trust fund.

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...”

The bill requires new C&D landfills to be lined, requires if practicable for C&D to be processed, requires new commercial and multifamily construction projects to provide recycling, requires recycling goals to be met, and incentivizes certain counties to increase recycling. Cumulatively, these activities may have a significant negative fiscal impact on county governments and the private sector and a similar opposite effect for those who are involved with the processing and recycling markets.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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 as it existed on February 1, 1989. 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:

The bill provides the DEP with rulemaking authority to establish methods and criteria to be used by a county in calculating the recycling rates under the requirements of the solid waste recycling goals and benchmarks provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill requires the DEP to develop and contract for a recycling pilot project for the Capitol recycling area. As written, this may incur a negative fiscal impact to the state. The DEP recommends amending s. 403.7145(3), F.S., to delete the phrase "Prior to awarding any grants pursuant to s. 403.7095." This ensures there will be no confusion or overlap with the state solid waste grant program.

Senate staff working on the bill reports the sponsor will amend the companion bill to provide a neutral fiscal impact to DEP.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES