

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/CS/SB 710

SPONSOR: Appropriations Subcommittee on General Government, Finance and Taxation, and Natural Resources

SUBJECT: Solid Waste Management

DATE: February 21, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Branning	Voigt	NR	Favorable/CS
2.	Keating	Johansen	FT	Favorable/CS
3.	Hendon	Hayes	AGG	Favorable/CS
4.	_____	_____	AP	Withdrawn: Fav/CS
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill provides for the reallocation of sales tax proceeds that are deposited into the Solid Waste Management Trust Fund and, instead, deposits these proceeds into the Ecosystem Management and Restoration Trust Fund to be used for water quality improvement and water restoration projects. The Solid Waste Management Trust Fund would then be funded almost exclusively from existing fees on tires purchased at retail. Deletes the requirement that the state solid waste program must provide guidelines for the collection and transportation of solid waste. Deletes the requirement that the state solid waste management program be updated every 3 years.

Deletes the detailed language regarding what information the counties must submit to the Department of Environmental Protection (DEP) annually. Provides instead that the DEP would periodically seek information from the counties to evaluate and report on the success of meeting the solid waste reduction goal.

Provides that the counties must implement a recyclable materials recycling program; however, the counties are no longer required to recover a majority of the "minimum five." Instead, they are encouraged to recover a significant portion of at least four of the following materials: Newspaper, aluminum cans, steel cans, glass, plastic bottles, cardboard, office paper, and yard trash. Counties are encouraged to consider plans for composting or mulching of organic materials and work in partnership with the private sector. Deletes specific language regarding the amount of construction and demolition debris, yard trash, white goods, and tires that may be considered when determining the 30 percent waste reduction goal. Redefines a small county for the purposes of having to provide an opportunity to recycle in lieu of achieving the 30 percent goal. Streamlines the provisions relating to the information counties must submit to the DEP.

Requires that construction and demolition debris must be separated from solid waste stream in separate locations at a solid waste disposal facility or other permitted site. Clarifies in the permit section that no facility that uses processed yard trash or clean wood or paper waste as a fuel source is deemed to be a solid waste disposal facility. These provisions currently exist and are moved from other sections in ch. 403, F.S.

The trust fund's purposes are refocused toward the core solid waste management responsibilities of the Department of Environmental Protection, funding for mosquito control activities in the Department of Agriculture and Consumer Services, and a new competitive and innovative solid waste management grant program. The department would use the new, reallocated funds in the Ecosystem Management and Restoration Trust Fund for a competitive grant program for water quality improvement and water restoration projects.

The bill amends ss. 212.20, 403.705, 403.706, 403.707, 403.709, 403.7095, 403.717, and 403.718, F.S.; and repeals ss. 403.7085, 403.7165, 403.719, and 403.7175, Requires that construction and demolition debris must be separated from solid waste stream in separate locations at a solid waste disposal facility or other permitted site. Clarifies in the permit section that no facility that uses processed yard trash or clean wood or paper waste as a fuel source is deemed to be a solid waste disposal facility. These provisions currently exist and are moved from other sections in ch. 403, F.S.F.S.

II. Present Situation:

Solid waste management is a local government responsibility. Prior to 1988, local governments in Florida did not receive ongoing grants to subsidize and assist in recycling and other solid waste management problems. Pollution problems at existing landfills, long delays in siting new landfill sites, and forecasts that one-third of the landfill space available in the state in 1985 would be closed by 1996 prompted the Legislature to help local governments meet their solid waste management responsibilities. The Solid Waste Management Act was enacted in 1988 to provide comprehensive programs to promote recycling and reduce the volume of materials going to landfills.

By 1990, Florida had 150 permitted landfills, most of which were lined, 11 waste-to-energy plants, and one of the largest recycling programs in the United States. These significant changes resulted from the passage of the Solid Waste Management Act of 1988 (SWMA.) The SWMA contained comprehensive provisions that established an overall 30 percent recycling goal to be met by 1994. The act also established a number of new programs for the management of special waste, as well as requiring training of landfill operators, financial responsibility for landfill closure, full-cost accounting for local government solid waste services, packaging requirements, litter control, and most importantly, a recycling and education grant program for governments to help them reach the 30 percent recycling goal.

The SWMA directed counties with population greater than 50,000 to reduce the disposal of municipal solid waste by 30 percent by the end of 1994. Counties with a population of 50,000 or less were exempt from the 30 percent goal as long as they provide their residents with an opportunity to recycle.

Another major feature of the SWMA was the creation of a Waste Tire Grant Program to assist counties in solving problems stemming from the large number of waste tires in Florida. One tire site in Polk County contained over 4.5 million tires which posed significant threats for fire and mosquito control. This grant program is funded from a \$1 fee imposed on each new motor vehicle tire sold at retail.

The SWMA created the Solid Waste Management Trust Fund to finance the various activities authorized by the 1988 law. The two major revenue sources for this fund are:

- A distribution of two-tenths of one percent of the sale tax proceeds transferred directly to the Solid Waste Management Trust Fund amounting to approximately \$30 million annually; and
- The Waste Tire Fees which produce an annual revenue of approximately \$20 million.

The Recycling and Education Grants Program has been successful in assisting counties in establishing and operating recycling program. By late 1995, the Department of Environmental Protection noted that a majority of counties with populations greater than 50,000 were recycling over 30 percent of their municipal solid waste, effectively meeting the statutory goal established in 1988.

The Waste Tire Grant Program has also been very successful. The large waste tire piles were cleaned up and management practices were put in place by local governments to prevent these build-ups from occurring again and appropriate disposal options were available to keep tires from being discarded randomly in the woods and rural locations.

During the last 10 years, solid waste disposal has changed from being mainly a local issue to becoming a regional issue in most parts of the state. The trend has been toward consolidation with fewer, larger landfills, and waste-to-energy plants taking waste from larger geographic areas. Less money has been going to local government recycling program in the past several years since funds have been diverted from the Solid Waste Management Trust Fund through the General Appropriations Act to other higher priority uses.

In 1995, demands for General Revenue Funds were greater than growth in those revenues. Consideration was given at that time to statutorily reallocating the sales tax revenues that were going to solid waste management and funding other priority needs such as aquatic plant control. Legislation to do that did not pass. However, every year since, significant amounts of revenues have been diverted from the Solid Waste Management Trust Fund to other uses in the General Appropriations Act notwithstanding the provisions of general law. Moneys have been diverted to the Working Capital Fund, the Invasive Plant Control Trust Fund, and the Ecosystem Management and Restoration Trust Fund to be used for aquatic and invasive plant control and various water projects.

III. Effect of Proposed Changes:

Section 1. Effective July 1, 2003, Section 212.20, F.S., is amended to provide that two-tenths of one percent of the proceeds collected from the sales tax collection shall be transferred to the Ecosystem Restoration and Management Trust Fund and specifies that the funds are to be used for water quality improvement and water restoration projects. This is consistent with legislative actions in recent years where this level of funds have been reallocated from the Solid Waste Management Trust Fund and used for water related improvement projects.

Section 2. Section 403.705, F.S., is amended to delete the requirement that the state solid waste program must provide guidelines for the collection and transportation of solid waste. This is generally a matter between the local governments and their contracts with the private sector. The Department of Environmental Protection (DEP) does not address these provisions for purposes of providing guidance for local recycling programs.

The requirement that a state solid waste management program be updated every 3 years is deleted.

The detailed language regarding what information the counties must submit to the DEP annually is deleted. Instead, the DEP would periodically seek information from the counties to evaluate and report on the success of meeting the solid waste reduction goal.

Section 3. Section 403.706, F.S., is amended to provide that the counties must implement a recyclable materials recycling program; however, the counties are no longer required to recover a majority of the “minimum five” — aluminum cans, newspaper, steel cans, glass, and plastic bottles. Instead, they must have recycling program designed to recover a significant portion of at least four of the following materials: newspaper, aluminum cans, steel cans, glass, plastic bottles, cardboard, office paper, and yard trash.

Counties are encouraged to consider plans for composting or mulching of organic materials and work in partnership with the private sector.

Specific language regarding the amount of construction and demolition debris (C&D), yard trash, white goods, and tires that may be considered when determining the 30 percent waste reduction goal is deleted.

For the purposes of having to provide an opportunity to recycle in lieu of achieving the 30 percent goal, small counties are redefined as those having a population of 100,000 or less instead of 75,000 or less. Certain notice requirements for such counties are deleted.

The provisions relating to the information counties must submit to the DEP regarding recycling and the waste reduction goal are streamlined.

Section 4. Section 403.707, F.S., is amended to require that C&D must be separated from the solid waste stream in separate locations at a solid waste disposal facility or other permitted site. This provision is moved from s. 403.706, F.S., relating to local governments responsibilities, to this section which pertains to permits.

Also moved from s. 403.706, F.S., is a provision that provides that no facility that uses processed yard trash or clean wood or paper waste as a fuel source is deemed to be a solid waste disposal facility.

Section 5. Section 403.709, F.S., is substantially reworded to prescribe the eligible uses of the Solid Waste Management Trust Fund. From the annual revenues deposited in the Solid Waste Management Trust Fund unless specified in the General Appropriations Act:

- Up to 40 percent shall be used for funding solid waste activities of the DEP and other state agencies, such as providing technical assistance to local governments and the private sector, performing solid waste regulatory and enforcement functions, preparing solid waste documents, and implementing solid waste education programs.
- Up to 4.5 percent shall be used for funding for research and training programs relating to solid waste management through the Center for Solid and Hazardous Waste Management and other organizations that can reasonably demonstrate the capability to carry out such project.
- Up to 11 percent shall be used for funding to supplement any other funds provided to the Department of Agriculture and Consumer Services for mosquito control. Up to 9 percent of the revenues deposited in the fund annually from waste tire fees shall be transferred to the General Inspection Trust Fund in the Department of Agriculture and Consumer Services to be used for mosquito control, especially control of West Nile Virus.
- Up to 4.5 percent shall be used for funding to the Department of Transportation for litter prevention and control programs coordinated by Keep Florida Beautiful, Inc.
- At least 40 percent shall be used for funding a competitive and innovative grant program pursuant to s. 403.7095, F.S., for activities relating to recycling and reducing the volume of municipal solid waste, including waste tires requiring final disposal.

The department shall recover to the use of the fund from the site owner or the person responsible for the accumulation of tires at the site, jointly and severally, all sums expended from the fund pursuant to this section to manage tires at an illegal waste tire site, except that the department may decline to pursue such recovery if it finds the amount involved too small or the likelihood of recovery too uncertain. If a court determines that the owner is unable or unwilling to comply with department rules, the court may authorize the department to take possession and control of the waste tire site in order to protect the health, safety, and welfare of the community and the environment.

The department may impose a lien on the real property on which the waste tire site is located and the waste tires equal to the estimated cost to bring the tire site into compliance, including attorney's fee and court costs.

Section 6. Section 403.7095, F.S., is substantially rewritten to direct the Department of Environmental Protection to develop a competitive and innovative grant program for eligible recipients – counties, municipalities, special districts, and non-profit organizations that have legal responsibilities for solid waste management. Grant program activities that would qualify for funding are those that:

- Demonstrate technologies or processes that are not in common use in Florida, that represent a novel application of an existing technology or process, or that overcome obstacles to recycling and waste reduction in new or innovative ways;
- Demonstrate innovative processes to collect and recycle or reduce materials targeted by the department and the recycling industry; or
- Demonstrate 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.

Because the Legislature recognizes that input from the recycling industry is essential to the success of this grant program, the department shall cooperate with private sector entities to develop a process and define specific criteria for allowing their participation with grant recipients.

The department shall evaluate and prioritize the annual grant proposals and present the annual prioritized list of projects to be funded to the Governor and the Legislature as part of its annual budget request submitted pursuant to ch. 216, F.S., beginning in Fiscal Year 2003-2004. Potential grant recipients are encouraged to demonstrate local support for grant proposals by the commitment of cash or in-kind matching funds.

The department may adopt rules to implement this section, including but not limited to matters relating to time frames for submitting grant applications, criteria for prioritizing, matching criteria, maximum grant amounts, and allocation of appropriated funds based upon project and applicant size.

Section 7. Section 403.717, F.S., is amended to delete DEP's authority to establish and administer a separate waste tire grants program. Because of the reduced funding, there will now only be one grants program and that program can be used for waste tires.

Section 8. Section 403.718, F.S., is amended to eliminate the requirement that waste tire fees be deposited into a waste tire account with the Solid Waste Management Trust Fund. Instead, since these fees are the major source of revenue for the trust fund, they will be deposited directly in the trust fund.

Section 9. The DEP is directed to develop a competitive grant program, referred to as the Water Quality Improvement and Water Restoration Grant Program, that would utilize the \$30 million annually transferred from sales tax proceeds to the Ecosystem Management and Restoration Trust Fund. This transfer is the same dollars that previously were transferred to the Solid Waste Management Trust Fund. The grant program would be for projects that improve water quality

and restore lakes and rivers impacted by pollution. Eligible grant recipients would be counties, municipalities, water management districts and special districts that have legal responsibilities for water quality improvement, water management, or surface water restoration. The DEP would annually evaluate project proposals and present a list of recommended projects to be funded to the Governor and the Legislature as part of its budget request submitted pursuant to ch. 216, F.S., beginning in Fiscal Year 2003-2004. The department is authorized to adopt rules to implement this section, including but not limited to, matters relating to time frames for submitting grant applications, evaluation criteria, matching fund criteria, maximum grant amounts and allocation of appropriated funds based upon project and applicant size.

Each fiscal year at least 20 percent of the funds available for this program shall be used for projects to assist financially disadvantaged small local governments. A “financially disadvantaged small local government” means a municipality with a population of 7,500 or less or a county with a population of 35,000 or less, according to the latest decennial census and a per capita annual income less than the state per capita annual income as determined by the United State Department of Commerce, or counties designated by the Governor as Rural Areas of Critical Economic concern pursuant to s. 288.0696, F.S.

Section 10. The following sections are repealed since they are outdated and no longer needed:

- s. 403.7085, F.S. — relating to animal parts, fats, byproducts, waste products, and vegetable oils disposal,
- s. 403.7165, F.S. — Applications Demonstration Center for Resource Recovery from Solid Organic Materials,
- s. 403.719, F.S. — requirements for a separate waste tire grant program due to the reduced funding for grants, only the competitive and innovative grant program and projects relating to solving tire related disposal problems can compete for those grants, and
- s. 403.7175, F.S. — relating to an annual transfer from the General Revenue Fund to the Water Quality Assurance Trust Fund.

Section 11. This act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

The bill amends s. 212.20, F.S., reallocating the two-tenths of one percent of the sales tax proceeds that are deposited into the Solid Waste Management Trust Fund to the Ecosystem Management and Restoration Trust Fund. The Solid Waste Management Trust Fund is exempt from the 7 percent general revenue service charge pursuant to s. 215.22, F.S., while the Ecosystem Management and Restoration Trust Fund is subject to the 7 percent service charge. This change will result in an estimated increase to the General Revenue Fund of \$2.3 million in fiscal year 2002-03 from the 7 percent general revenue service charge.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Currently, approximately \$2.2 million is transferred annually from the Solid Waste Management Trust Fund to the Department of Agriculture and Consume Services for mosquito control activities. Under this bill, approximately the same amount would be transferred annually for mosquito control activities especially for control of West Nile Virus.

In recent years the Legislature reallocated significant funds from the Solid Waste Management Trust Fund to other environmental programs such as lake restoration projects and sewer facility construction. These allocations were handled through the annual General Appropriations Bill and Appropriations Implementing Bill. This bill provides for sales tax proceeds that are now deposited into the Solid Waste Management Trust Fund to, instead, be deposited into the Ecosystem Management and Restoration Trust Fund and be used to fund water quality improvement and water restoration projects. This change would eliminate the need to use the Appropriations Implementing Bill to overcome funding requirements spelled out in general laws for solid waste management.

Beginning in Fiscal Year 2003-2004, the state's overall Solid Waste Management Program would be funded at an annual level of approximately \$20 million utilizing the revenues from the existing \$1 fee imposed on tires purchased at retail. Provisions in the bill specify percentages for how the Solid Waste Management Trust Fund is to be used unless otherwise specified in the annual General Appropriation Act. These statutory percentages would provide the following:

40% or approximately \$8 million annually shall be used for DEP's core responsibilities;

5% or approximately \$1 million for research and training programs through the Center for Solid and Hazardous Waste Management and other organizations;

11% or approximately \$2.2 million for mosquito control activities through the Department of Agriculture and Consumer Services;

5% or approximately \$1 million for litter prevention and control programs coordinated by Keep Florida Beautiful, Inc.; and

40% or approximately \$8 million annually for funding a competitive and innovative solid water management grant program.

(Further requirements in the bill in the solid waste grants section specify how the \$8 million for competitive innovative grants is to be used:

50% or approximately \$4 million shall be used for waste tire management and of that amount 25% or approximately \$1 million is available for waste tire grants to counties with a population of less than 100,000;

35% or approximately \$2.8 million for grants to small counties for general solid waste management, recycling and litter prevention; and

15% or approximately \$1.2 million for competitive and innovative grants for counties, municipalities, special districts and nonprofit organizations with solid waste management responsibilities.)

The bill also provides that each fiscal year at least 20 percent of the funds available for the Water Quality Improvement and Water Restoration Grant Program must be used for projects to assist financially disadvantaged small local governments. Currently, that would amount to approximately \$6 million. This overall grant program for water projects would begin in Fiscal Year 2003-2004, and involve about \$30 million annually.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.