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**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
ANALYSIS**

BILL #: HB 851
RELATING TO: Solid Waste Management
SPONSOR(S): Representative(s) Dockery

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) NATURAL RESOURCES & ENVIRONMENTAL PROTECTION YEAS 12 NAYS 0
 - (2) GENERAL GOVERNMENT APPROPRIATIONS
 - (3) COUNCIL FOR READY INFRASTRUCTURE
 - (4)
 - (5)
-

I. SUMMARY:

Provisions of HB 851 would:

transfer certain sales tax proceeds to the Ecosystem Management and Restoration Trust Fund to create a water quality improvement and water restoration grant program:

rewrite laws pertaining to the creation and use of the Solid Waste Management Trust Fund (SWMTF);

rewrite an existing grant program for solid waste management; and

repeal the waste tire grant program.

Provides that the bill become effective upon becoming law.

On February 6, 2002, the Committee on Natural Resources and Environmental Protection adopted a strike-everything amendment that is traveling with the bill. Please see "Amendments or Committee Substitute Changes" section.

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

The bill would create a new grant program targeted to water quality improvement and water restoration programs.

B. 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. Thus in 1988, the Solid Waste Management Act (SWMA) was created to address the growing costs and environmental problems associated with solid waste disposal in Florida.

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. 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 the state. This grant program is funded from a \$1 fee imposed on each new motor vehicle tire sold at retail.

To fund provisions of the SWMA the Solid Waste Management Trust Fund was created, (see s. 403.709, F.S.) 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.

To assist counties in recycling, the Legislature established the Recycling and Education Grant Program, (see s. 403.7095, F.S.) This program, funded from the Solid Waste Management Trust Fund, was intended to provide seed money to counties for establishing required programs. Counties were awarded grants for initial capital costs and, if justified, temporary operating

subsidies. Other possible uses include operations, recycling education, market development, and special projects. The Legislature also provides local governments several other grants for solid waste management activities. These grants include, Waste Tire, Used Oil, Litter Control and Prevention and Small County grants for counties with populations under 100,000 that may be used for any solid waste management activity, including recycling.

Solid Waste Management Trust Fund Allocations

The Legislature annually appropriates money from the SWMTF for several grant programs administered by the DEP, including recycling and education grants. These grants for county solid waste programs have been reduced from a high of \$35 million in the mid-1990's to the current appropriation of \$5.8 million which was made available only to those counties with a population of 100,000 or less (see 2001-2002 General Appropriations Implementing Bill). Corresponding with this reduction in grants have been legislative efforts to statutorily reallocate the sales tax revenues that are going to the trust fund and use the money for other priority needs. These legislative efforts have not been successful. However, every year since 1995, significant amounts of revenues have been diverted from the trust fund to other uses in the General Appropriations Act. 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.

Additional annual expenditures from the SWMTF include:

\$9.4M for DEP solid waste activities, such as, salaries, insurance, laboratory operations, and waste tire abatement.

\$3M for biomedical waste management, education, hazardous waste compliance efforts, and mercury and lead recycling.

\$2.3M for research and training efforts.

\$2.2M for mosquito control.

Water Project Funding

As discussed above SWMTF dollars have been used for many water projects over the past few years. A review of expenditures shows that some \$40 million has been transferred from the SWMTF for these purposes. In addition to these transfers the DEP has several existing programs to fund water projects, including:

- "Clean Water" State Revolving Fund (SRF) loan program for wastewater, storm water, and other nonpoint source projects (ss. 403.1835-.1837, F.S.);
- Drinking Water SRF loan/grant program for drinking water systems (ss. 403.8532-.8533, F.S.);
- Disadvantaged community wastewater grant program with a waiting list of more than 60 projects totaling more than \$200 million in funding requests (s. 403.1838, F.S.);
- SWIM program under chapter 373, F.S., which, if funded, would address high priority surface water restoration projects (s. 373.453, F.S.);

- Florida Forever, which permits water management districts to use a portion of bond proceeds for restoration projects (ss. 259.105-.1051, F.S.).

C. EFFECT OF PROPOSED CHANGES:

The bill would transfer two-tenths of one percent of state sales tax proceeds to the Ecosystem Management and Restoration Trust Fund (EMRTF) to fund water quality improvement and restoration projects. Presently, those funds go to the Solid Waste Management Trust Fund for solid waste activities. (The estimated proceeds for FY 2002-03 are about \$33.2 million.) The bill proposes to fund these water projects through a competitive grant program. In short, the program is as follows:

- Eligible entities: counties, municipalities, water management districts and other districts having responsibility for water quality improvement and management, wastewater and stormwater management, and lake and river restoration.
- Priorities: “the degree to which such projects will protect public health and the environment” and the degree to which projects implement Surface Water Improvement and Management Plans; other legally required plans, including those under s. 403.067 (implementation of total maximum daily loads); and local government plans.
- Action: the DEP is required to submit the prioritized list of projects to the Governor and legislature in its annual budget request. It is not clear whether this action is, relatively speaking, *pro forma* or whether the Legislature and Governor would take specific action on individual projects on the DEP’s prioritized list.

The bill substantially rewrites s. 403.709, F.S., relating to uses of funds within the SWMTF. Specific provisions would direct that funds be used for:

- Activities of the department such as providing technical assistance, performing regulatory and enforcement functions, preparing documents, and implementing education programs.
- Research and training programs.
- Mosquito control efforts overseen by the Department of Agriculture and Consumer Services. The bill specifically allocates \$4 million annually be transferred for this purpose.
- Litter prevention and control programs coordinated by Keep Florida Beautiful, Inc.
- Implementing a competitive and innovative grant program for activities relating to recycling and waste reduction, including waste tire disposal.

This rewrite, while keeping much of the original language creating the trust fund, differs in the following manner: priority funding for aseptic packaging recycling programs is removed; the requirement that waste tire funds be segregated is removed; and provisions allowing for the DEP to recover cost associated with waste tire removal and cleanups is removed.

The bill also substantially rewrites s. 403.7095, F.S., which created the solid waste management grant program. The new provisions re-create the grant program and direct the DEP to award funds to programs that:

- Demonstrate technologies or processes that are not common, represent a novel application of technology, or provide innovative methods for overcoming obstacles related to recycling or waste reduction.

- Demonstrate innovative processes to collect, recycle, or reduce materials targeted by the DEP.
- Demonstrate effective solutions to solving waste tire problems, particularly in the areas of enforcement and abatement.

The grants are to awarded by the DEP on a competitive basis and criteria for their award is to be developed in consultation with the waste management industry.

These changes differ from current law in two significant ways. First, funding formulas that ensured distribution to small counties are eliminated and second, a series of prescriptive criteria for participation in the program are removed. Specifically these changes would eliminate \$5.8 million in grants that were awarded to small county's (those under 100,000 population) in fiscal year 2001-2002. The grant programs that are eliminated are: small county; waste tire; and recycling and education.

Additional provisions of the bill:

- Direct that waste tire fees be deposited directly into the SWMTF and no longer be kept in a segregated account.
- Repeals s. 403.719, F.S., which created a separate waste tire grant program.

D. SECTION-BY-SECTION ANALYSIS:

Section 1- Amends s. 212.20 (2), F.S., to provide that the two-tenths of one percent of sales tax proceeds be transferred to the Ecosystem Management Trust Fund, rather than to the Solid Waste Management Trust Fund.

Section 2- Amends s. 403.709, F.S., to revise the uses of moneys in the Solid Waste Management Trust Fund, including waste tire fee revenues; deleting provisions relating to recovery of funds expended for cleanup of illegal waste tire sites. Directs the Department of Environmental Protection to provide assistance to local governments and the private sector and to perform solid waste regulatory and enforcement duties. Provides that at least \$3 million of revenues from waste tire fees be transferred to the Operations Trust Fund in the Department of Agriculture and Consumer Services for mosquito control. Provides funding for litter prevention and control programs for Keep Florida Beautiful, Inc. Provides funding for a competitive and innovative grant program for activities relating to recycling, volume reduction of municipal solid waste, and waste tire disposal.

Section 3- Amends s. 403.7095, F.S., to revise requirements and procedures relating to the solid waste management grant program. Authorizes the Department of Environmental Protection to adopt rules to administer the solid waste management program. Requires the Department of Environmental Protection to cooperate with private sector entities to develop a process and define specific criteria for allowing their participation with grant recipients. Requires the Department of Environmental Protection to evaluate and prioritize grant proposals and submit a prioritized list to the Governor and Legislature as part of its annual budget request.

Section 4- Amends s. 403.717, F.S., to delete cross references relating to the waste tire grants program.

Section 5- Amends s. 403.718, F.S., to eliminate the waste tire account within the Solid Waste Management Trust Fund.

Section 6- Creates the water quality improvement and water restoration grant program to be administered by the Department of Environmental Protection. Specifies eligible grant recipients and criteria for evaluation of grant proposals. Requires the Department of Environmental Protection to evaluate and prioritize grant proposals and submit a prioritized list of water restoration projects to the Governor and the Legislature as part of its annual budget request. Authorizes the Department of Environmental Protection to adopt rules to administer the program.

Section 7- Repeals s. 403. 719, F.S., to eliminate the grant program for the collection, removal, processing , and recycling, of waste tires.

Section 8- Provides that the bill become will take effective upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Transfers two-tenths of one percent of state sales tax proceeds to the Ecosystem Management and Restoration Trust Fund (EMRTF) to fund water quality improvement and restoration projects, estimated to be \$33.2 million in FY 2002-03. Future year transfers are entirely dependent on sales tax receipts.

Absent the contribution from state sales tax proceeds, the waste tire fee becomes the primary source of money for the SWMTF. Changing the current transfer from SWMTF to the EMRTF reduces the annual recurring revenues into the SWMTF from about \$53M to \$20M.

Increases the annual amount of money (from \$2,278,598 million to at least \$4 million) for mosquito control.

2. Expenditures:

An additional \$30 million would be made available via the transfer of state sales tax to the EMRTF for the implementation of the water quality improvement and water restoration grant program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

With the bill's proposed program for funding grants for water quality projects, local governments, including water management districts and other districts responsible for water management, would anticipate receiving collectively perhaps \$30 million each year through the grant program. There is no way to determine in advance which specific applicants and projects would qualify or be funded in any given year.

\$5.8 million in small county solid waste management grants would no longer be available for counties under 100,000 population.

2. Expenditures:

Grants to the small counties would be eliminated. At a minimum each small county would lose their \$50,000 base grant. Total losses for this group of counties range from \$75,000 to just under \$300,000.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Statewide, businesses handling tires will pay increased disposal costs to the extent local jurisdictions pass on the loss of grant revenues to landfill users. All businesses, in counties with populations fewer than 100,000, will have increased fees to dispose of waste to the extent local jurisdictions pass on the loss of grant revenues to landfill users.

D. FISCAL COMMENTS:

N/A

III. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

HB 851 does not require municipalities or counties to spend money or to take action that requires a significant expenditure of money.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

HB 851 does not reduce the authority that municipalities or counties have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

HB 851 does not reduce the percentage of state tax revenues shared with counties or municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

Sections 3 and 6 of the bill provide the DEP with rulemaking authority for the implementation of a solid waste management grant program and a water quality and water restoration grant program.

C. OTHER COMMENTS:

The elimination of the small county grant programs could have a potentially negative effect upon waste management. These small counties are extremely dependent on the grant funds to

subsidize the cost of providing waste management services. Concerns have been raised that elimination of the grants would lead to increases in illegal dumping activities on private and public lands. The sponsor of the bill has acknowledged the importance of this issue and is working to address it in a proposed strike-everything amendment.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 6, 2002, the Committee on Natural Resources and Environmental Protection adopted a strike-everything amendment that is traveling with the bill. Detailed below are the changes and/or differences.

The following provisions were not changed by the strike amendment. They are:

- Section 212.20, F.S. providing for the transfer of funds to the Ecosystem Management and Restoration Trust Fund.
- Sections 403.717, F.S., and 403.718, F.S. which made technical and clarifying changes.
- Section 403.719, F.S., which is repealed. The waste tire grant program is replaced by s. 403.709, F.S., and s. 403.7095, F.S. in this amendment.

The following new provisions were added as a result of the strike amendment. They are:

Section 403.705, F.S., was amended to:

- Reduce solid waste management reporting requirements for counties to the Department of Environmental Protection.

Section 403.706, F.S., was amended to:

- Changes the requirement that counties recycle a "majority" of certain materials to recycle a "significant portion" of materials. Additionally, this provision expands the list of materials that may be counted for the purposes of determining the recycling rate.
- Amends and deletes language for formulating the municipal solid waste reduction goal.
- Changes the small county population threshold from 75,000 to 100,000 to make consistent with current law.
- Removes a mandate that counties "must" consider plans for composting/mulching organic materials and partnering with the private sector to "encouraging" plans for composting/mulching and partnering with the private sector.
- Reduces the reporting requirements for counties and provides that the department may be "provided information" regarding county solid waste management plans.

The following provisions were amended from the original bill. They are:

Section 403.707, F.S., provides the following:

- Reinstates stricken provisions from s. 403.706, F.S., that construction and demolition debris must be separated from the solid waste stream and segregated in separate locations at a solid waste disposal facility or other permitted site.
- Provides that no facility, solely by virtue of the fact that it uses processed yard trash or clean wood or paper waste as a fuel source shall be deemed to be a solid waste disposal facility.

Section 403.709, F.S., provides the following:

- o Amends a provision to deposit at least \$3 million from the Solid Waste Management Trust Fund to General Inspection Trust Fund in Department of Agriculture and Consumer Services for mosquito control.
- o Provides that a minimum of \$8 million from the Solid Waste Management Trust Fund be used for funding a competitive and innovative grant program for reducing municipal waste.
- o Reinstates current law allowing the department to impose a lien on real property on which to bring a waste tire site into compliance.

Section 403.7095, F.S., which describes the grant program funded pursuant to s. 403.709, F.S. was amended to provide:

- o A minimum of \$1 million annually to develop an innovative solid waste management program.
- o A minimum of \$3 million annually (those with small counties with populations less than 100,000) shall be distributed funds equally to manage their recycling and solid waste management activities.
- o A minimum of \$4 million annually for the department to develop a waste tire grant program for all counties of the State of Florida. Provides that at least 25% or \$1 million of waste tire grants annually to those small counties with population less than a 100,000.

A chapter law provision provides the following:

- o Adds a provision that no later than February 1, of each year water quality improvement projects and water restoration projects submitted through the legislative process shall be submitted to the department by the appropriate fiscal committees of the House and Senate. The department shall review the projects for funding eligibility and must, no later than March 1 of each year, provide each fiscal committee with a list of projects that meet the eligibility requirements.

Sections 403.7085, 403.7165, 403.7175, are repealed. These provisions created and funded a center devoted to the study of resource recovery from organic materials. The provisions are no longer needed because the project has been completed.

VI. SIGNATURES:

COMMITTEE ON NATURAL RESOURCES & ENVIRONMENTAL PROTECTION:

Prepared by:

Noah C. McKinnon III

Staff Director:

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AS REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

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Lynn Dixon