

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1607 w/CS Environmental Protection

SPONSOR(S): Littlefield

TIED BILLS: **IDEN./SIM. BILLS:** SB 2338

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Environmental Regulation (Sub)	5 Y, 0 N	McKinnon	Lotspeich
2) Natural Resources	16 Y, 0 N w/CS	McKinnon	Lotspeich
3) Appropriations			
4)			
5)			

SUMMARY ANALYSIS

HB 1607 allows fly ash and other combustion products from electric generating facilities to be used in roadway applications, fill, and construction applications without regulation as a hazardous or solid waste by the Department of Environmental Protection (DEP). The bill allows reinforced fiber cement products to be disposed of in a construction and demolition land fill. The bill also amends s. 403.722, F.S., adding Hazardous Waste Corrective Action Permit to the list of hazardous waste facility permits authorized by Chapter 403, F.S. Lastly, the bill amends 403.087 to establish fees for a hazardous waste corrective action permit. The bill has no expected fiscal impacts.

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

STORAGE NAME: h1607b.nr.doc

DATE: April 11, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Fossil Fuel Combustion Products

Fossil fuel combustion products (FFCPs), such as fly ash, are currently regulated as solid waste under the provisions of Part IV, Chapter 403, F.S. The beneficial use of industrial byproducts like fly ash is authorized under section 403.7045, F.S., upon a demonstration that such use will not lead to a violation of DEP standards. DEP has routinely approved beneficial uses of FFCPs involving encapsulation, such as use of fly ash in concrete products (in fact, the DEP generally does not even review this kind of use), and has approved other beneficial uses on a case-by-case basis. In some cases where the FFCPs are proposed to be used in unconsolidated form, the DEP has required testing and analysis of the materials as part of its review.

Fiber Reinforced Cement Products Disposal

There are construction materials used in home building and pipes that are made of fiber reinforced cement. The manufacturing process for these products generates scrap due to aesthetic defects. Under current law, this scrap material is required to be disposed of in a Class III landfill.

Hazardous Waste Corrective Action Permitting

DEP has current authority to implement Hazardous Waste Corrective Action Permitting. Currently DEP is seeking to correct the technical language within ss. 403.087 and 403.722, Florida Statutes, so that appropriate fees can be collected.

Effect of Proposed Changes

The bill creates a new section 403.7047, F.S., which exempts the beneficial use of FFCPs from regulation under part IV of chapter 403, F.S. The bill exempts the storage of these products prior to use from any regulation as solid waste. While the DEP encourages the beneficial use of waste products in a responsible manner, this bill would essentially eliminate DEP's authority to review or approve all uses of FFCPs, including those which could pose threats to public health or the environment.

Although the bill covers virtually all possible uses of FFCPs, it divides these uses into two categories. The first category would allow no DEP review at all, and authorizes unlimited storage or use of all FFCPs in certain uses. Some of these uses are already approved by the DEP (e.g., use of fly ash in concrete, cement, or asphalt products), but some have never even been reviewed or analyzed, and some would

allow unconsolidated ash to be placed directly on the ground. The second category requires notice to the DEP before a particular use is allowed, but even then does not require DEP approval prior to use. This category includes agricultural uses, land reclamation, and unspecified "pilot" projects, which all involve the placement of unconsolidated ash on the ground. The bill requires that DEP initiate rule making by July 1, 2004, for the purpose of approving the beneficial uses of fly ash.

The bill allows reinforced fiber cement products to be disposed of in a construction and demolition land fill. The bill also amends s. 403.722, F.S., adding Hazardous Waste Corrective Action Permit to the list of hazardous waste facility permits authorized by Chapter 403, F.S. Lastly, the bill amends 403.087, F.S., to establish fees for a hazardous waste corrective action permit.

C. SECTION DIRECTORY:

Section 1. Creates s. 403.7047, F.S., to exempt the beneficial use of fossil fuel combustion products from regulation as a solid waste.

Section 2. Amends 403.087, F.S., to provide for fees to a hazardous waste corrective action permit.

Section 3. Amends s. 403.703, F.S., to provide that nonhazardous fiber reinforced cement to be disposed in a construction and demolition disposal site.

Section 4. Amends s. 403.722, F.S., to provide for a Hazardous Waste Corrective Action Permits and add to the list of hazardous waste facility permits authorized by Chapter 403, F.S.

Section 5. Establishes an effective date of July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The fiscal impacts are indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will initially reduce regulatory costs to facilities producing fossil fuel combustion products, since they will not be required to seek DEP approval for the storage or use of FFCPs.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not affect municipal or county government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires that DEP initiate rule making by July 1, 2004, for the purpose of approving the beneficial uses of fly ash.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to DEP, the bill could result in environmental harm or threat to public health. DEP recognizes that many beneficial uses of FFCPs pose no significant threats, and in fact some FFCPs have been beneficially used in products for decades. While data available to the DEP indicates that many FFCPs, if placed on the ground, have the potential to leach contaminants that may result in violations of DEP ground water or surface water standards, according to USGS studies fly ash has little or no leaching characteristics that would result in harm to humans or the environment.¹

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 9, 2003, the House Committee on Natural Resources favorably adopted a strike all amendment to HB 1607 adding the following:

- Amends 403.087, F.S., to provide for fees to a hazardous waste corrective action permit.
- Amends s. 403.703, F.S., to provide that nonhazardous fiber reinforced cement may be disposed of in a construction and demolition disposal site.
- Amends s. 403.722, F.S., to provide for a Hazardous Waste Corrective Action Permits and to the list of hazardous waste facility permits authorized by Chapter 403, F.S.

¹ Radioactive Elements in Coal and Fly Ash: Abundances, Forms, and Environmental Significance, USGS, Fact Sheet FS-163-97, October 1997. <http://geology.cr.usgs.gov/energy/facshts/163-97/fs-163-97.html>