

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: CS/SB 326

INTRODUCER: Environment and Natural Resources Committee and Senator Perry

SUBJECT: Environmental Regulation

DATE: February 3, 2020

REVISED: \_\_\_\_\_

|    | ANALYST     | STAFF DIRECTOR | REFERENCE | ACTION             |
|----|-------------|----------------|-----------|--------------------|
| 1. | Schreiber   | Rogers         | EN        | <b>Fav/CS</b>      |
| 2. | Paglialonga | Yeatman        | CA        | <b>Favorable</b>   |
| 3. | Schreiber   | Phelps         | RC        | <b>Pre-meeting</b> |

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 326 requires local governments to address the contamination of recyclable material in contracts for the collection, transportation, and processing of residential material. The bill applies to contracts between a local government and a residential recycling collector or recovered materials processing facility that are executed or renewed after October 1, 2020. Such contracts are required to define the term “contaminated recyclable material.” The bill specifies topics that must be addressed in local government contracts with both residential recycling collectors and recovered materials processing facilities.

The bill prohibits local governments from requiring a person claiming an exemption from environmental resource permitting requirements to provide further verification from the Department of Environmental Protection. The bill also changes the specific criteria for the replacement or repair of a dock or pier that is exempt from environmental resource permitting requirements.

**II. Present Situation:**

**Recycling in Florida**

Each Florida county has the responsibility and authority to provide for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the

county.<sup>1</sup> Municipalities are responsible for collecting and transporting solid waste from their jurisdictions to a solid waste disposal facility operated by a county or operated under a contract with a county.<sup>2</sup> Counties may charge reasonable fees for the handling and disposal of solid waste at their facilities.<sup>3</sup> Under Florida law, “recycling” is defined as any process by which solid waste, or materials that would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or intermediate or final products.<sup>4</sup> “Municipal solid waste” includes any solid waste (except for sludge) resulting from the operation of residential, commercial, or governmental establishments that would normally be collected, processed, and disposed of through a solid waste management service (this excludes waste from industrial, mining, or agricultural operations).<sup>5</sup>

In 2008, the Legislature established a weight-based goal of recycling 75 percent of Florida’s municipal solid waste by 2020.<sup>6</sup> In 2010, the Legislature established interim goals that counties must pursue leading up to 2020.<sup>7</sup> The interim goals require each Florida county to implement a recyclable materials recycling program with a goal of recycling 40 percent of recyclable solid waste by December 31, 2012; 50 percent by December 31, 2014; 60 percent by December 31, 2016; 70 percent by December 31, 2018; and 75 percent by December 31, 2020.<sup>8</sup> These programs must be designed to recover a significant portion of at least four of the following materials from the solid waste stream before final disposal at a solid waste disposal facility and to offer these materials for recycling:

- Newspapers.
- Aluminum cans.
- Steel cans.
- Glass.
- Plastic bottles.
- Cardboard.
- Office paper.
- Yard trash.<sup>9</sup>

Counties with a population of 100,000 or less, in lieu of achieving the interim goals, may instead provide residents with the opportunity to recycle.<sup>10</sup> Providing the “opportunity to recycle” must include both of the following:

- Either:

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<sup>1</sup> Section 403.706(1), F.S. Municipalities may also be authorized to construct and operate solid waste disposal facilities, if certain statutory requirements are met; *see* Fla. Admin. Code Ch. 62-701.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Section 403.703(31), F.S.

<sup>5</sup> Section 403.706(5), F.S.

<sup>6</sup> Chapter 2008-227, s. 95, Laws of Fla.; s. 403.7032, F.S.; *see* DEP, *Florida and the 2020 75% Recycling Goal, Volume 1 - Report*, 5, 7, 28 (2017)[hereinafter *DEP 2017 Report*], available at [https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1\\_0\\_0.pdf](https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf). The 75% recycling goal is a weight-based recycling rate: for every 100 tons of municipal solid waste collected, the goal is to recycle (or recover energy from) at least 75 tons.

<sup>7</sup> Chapter 2010-143, s. 7, Laws of Fla.; s. 403.706(2)(a), F.S.

<sup>8</sup> Section 403.706(2)(a), F.S.

<sup>9</sup> Section 403.706(2)(f), F.S.

<sup>10</sup> Section 403.706(4)(c), F.S.

- Providing a system for separating and collecting recyclable materials prior to disposal that is located at a solid waste management facility or solid waste disposal area; or
- Providing a system of places within the county for collection of source-separated recyclable materials.
- Providing a public education and promotion program that is conducted to inform residents of the opportunity to recycle, encourages source separation of recyclable materials, and promotes the benefits of reducing, reusing, recycling and composting materials.<sup>11</sup>

According to a 2019 report by the Department of Environmental Protection (DEP), only 36 of Florida's 67 counties have populations over 100,000.<sup>12</sup> These 36 counties contain approximately 95% of Florida's population, and produced 45 million of the 47 million tons of municipal solid waste generated in Florida in 2018.<sup>13</sup>

Each county must ensure, to the maximum extent possible, that municipalities within its boundaries participate in the preparation and implementation of recycling and solid waste management programs through interlocal agreements or other means provided by law.<sup>14</sup> Counties and municipalities are encouraged to form cooperative arrangements for implementing recycling programs.<sup>15</sup> Certain activities are eligible for special credit towards achieving a county's recycling goals, including using solid waste as a fuel in a renewable energy facility and innovatively using yard trash or other clean wood waste or paper waste.<sup>16</sup> In order to assess progress towards achieving the interim goals, counties are required to provide information on their solid waste management programs and recycling activities to DEP by April 1 of each year.<sup>17</sup> If DEP determines that a county has not reached the interim recycling goals in time, DEP is authorized to direct the county to develop a plan to expand recycling programs to existing commercial and multifamily dwellings, including apartment complexes.<sup>18</sup> Such an authorized directive applies to the larger counties (with populations over 100,000), which are required to pursue the interim goals.<sup>19</sup>

In those years when the state's recycling rate does not meet the statutory thresholds for the interim goals, DEP must provide a report to the President of the Senate and the Speaker of the House of Representatives.<sup>20</sup> This report must identify those additional programs or statutory changes needed to achieve the state's recycling goals.<sup>21</sup> Florida achieved the interim recycling goals established for 2012 and 2014.<sup>22</sup> However, Florida's recycling rate for 2016 was 56 percent, falling short of the 2016 interim recycling goal of 60 percent.<sup>23</sup> Florida's recycling rate

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<sup>11</sup> *Id.*

<sup>12</sup> DEP, *Florida and the 2020 75% Recycling Goal: 2019 Status Report, Volume 1*, 3, 9 (2019)[hereinafter *DEP 2019 Report*], available at [https://floridadep.gov/sites/default/files/Final%20Strategic\\_Plan\\_2019%2012-13-2019\\_1.pdf](https://floridadep.gov/sites/default/files/Final%20Strategic_Plan_2019%2012-13-2019_1.pdf).

<sup>13</sup> *Id.* at 18, 29.

<sup>14</sup> Section 403.706(3), F.S.

<sup>15</sup> Section 403.706(2)(a), F.S.

<sup>16</sup> Section 403.706(4), F.S.

<sup>17</sup> Section 403.706(7), F.S.; Fla. Admin. Code R. 62-716.450.

<sup>18</sup> Section 403.706(2)(d), F.S.

<sup>19</sup> *DEP 2019 Report*, at 3.

<sup>20</sup> Section 403.706(2)(e), F.S.

<sup>21</sup> *Id.*

<sup>22</sup> *DEP 2017 Report*, at 5, available at [https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1\\_0\\_0.pdf](https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf).

<sup>23</sup> *Id.*

declined from 52 percent in 2017 to 49 percent in 2018, both of which fall short of the interim targets.<sup>24</sup> This decrease can largely be attributed to a reduction in the reported amount of construction and demolition (C&D) debris recycled in 2018.<sup>25</sup> DEP submitted the most recent status report in 2019.<sup>26</sup> Without significant changes to the current approach, the 75% by 2020 goal will not be achieved.<sup>27</sup>

In 2018, of Florida's 32 large counties (with populations over 100,000), four met the 70% interim recycling goal.<sup>28</sup> Recycling credits received for renewable energy and C&D debris were the primary factors for success in these four counties.<sup>29</sup> In August of 2019, DEP requested each of the 32 large counties not reaching the interim goals to develop a plan to expand current recycling programs to existing commercial and multifamily dwellings.<sup>30</sup> As of November 21st, DEP has received all 32 county recycling plans.<sup>31</sup>

DEP may reduce or modify the municipal solid waste recycling goal that a county is required to achieve if the county demonstrates to DEP that:

- The achievement of the goal would have an adverse effect on the financial obligations of the county that are directly related to a waste-to-energy facility owned or operated by or on behalf of the county; and
- The county cannot remove normally combustible materials from solid waste that is to be processed at a waste-to-energy facility because of the need to maintain a sufficient amount of solid waste to ensure the financial viability of the facility.<sup>32</sup>

The goal may only be reduced or modified to the extent necessary to alleviate the adverse effects on the financial viability of a county's waste-to-energy facility.<sup>33</sup>

In the development and implementation of a curbside recyclable materials collection program, a county or municipality must enter into negotiations with a franchisee who is operating to exclusively collect solid waste within a service area of a county or municipality to undertake curbside recyclable materials collection responsibilities for a county or municipality.<sup>34</sup> Local governments are authorized to enact ordinances that require and direct all residential properties, multifamily dwellings, and apartment complexes and industrial, commercial, and institutional establishments as defined by the local government to establish programs for the separation of recyclable materials designated by the local government.<sup>35</sup> A market must exist for the recyclable materials, and the local government must specifically intend for them to be recycled.<sup>36</sup> Local governments are authorized to provide for the collection of recyclable materials. Such ordinances

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<sup>24</sup> *DEP 2019 Report*, at 3.

<sup>25</sup> *Id.* at 9.

<sup>26</sup> *Id.* at 3.

<sup>27</sup> *Id.* at 29.

<sup>28</sup> *Id.* at 3.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 9.

<sup>31</sup> *Id.*; DEP, *Florida and the 2020 75% Recycling Goal: 2019 Status Report, Volume 2, Appendices* (2019), available at [https://floridadep.gov/sites/default/files/Final%20Appendix%20Strategic%20Plan%2012-13-2019\\_for\\_upload\\_test.pdf](https://floridadep.gov/sites/default/files/Final%20Appendix%20Strategic%20Plan%2012-13-2019_for_upload_test.pdf).

<sup>32</sup> Section 403.706(6), F.S.

<sup>33</sup> *Id.*

<sup>34</sup> Section 403.706(9), F.S.

<sup>35</sup> Section 403.706(21), F.S.

<sup>36</sup> *Id.*

may include, but are not limited to, prohibiting any person from knowingly disposing of recyclable materials that are designated by the local government and that ensure the collection of recovered materials as necessary to protect public health and safety.<sup>37</sup>

A local government may not:

- Require a commercial establishment that generates source-separated recovered materials to sell or otherwise convey its recovered materials to the local government or a facility designated by the local government;
- Restrict such a generator's right to sell or otherwise convey such recovered materials to any properly certified recovered materials dealer; or
- Enact any ordinance that prevents such a dealer from entering into a contract with a commercial establishment to purchase, collect, transport, process, or receive source-separated recovered materials.<sup>38</sup>

Local governments may require a commercial establishment to source separate the recovered materials generated on the premises of the commercial establishment.<sup>39</sup>

DEP has been working to increase recycling rates through grant programs, educational opportunities, and the development of a statewide outreach campaign called "Rethink. Reset. Recycle."<sup>40</sup> DEP is also working on the following recycling options:

- Evaluating the implications of shifting from a weight-based recycling goal to sustainable materials management processes.<sup>41</sup>
- Researching the concept of moving from a weight-based recycling goal of 75 percent by 2020 to market-specific goals such as a food diversion goal or an organics recycling goal.
- Requesting that Florida's state universities and Department of Education review potential K-12 curriculum programs emphasizing waste reduction and recycling practices.
- Continuing to work with state agencies to identify recycling/cost-saving measures specific to their operations.
- Providing counties not achieving the interim recycling goals with assistance in analyzing, planning, and executing opportunities to increase recycling.<sup>42</sup>

### ***Contamination***

Many counties and municipalities have instituted single stream recycling programs.<sup>43</sup> Single stream curbside recycling programs allow all accepted recyclables to be placed in a single, curbside recycling cart, comingling paper, plastic bottles, metal cans, and glass containers. Single stream recycling programs have been marginally successful in providing curbside collection efficiency by increasing the number of materials collected and residential participation. While there are many advantages to single stream recycling, it has not consistently

<sup>37</sup> *Id.*

<sup>38</sup> Section 403.7046(3), F.S.

<sup>39</sup> Section 403.7046(3)(a), F.S.

<sup>40</sup> *DEP 2019 Report*, at 22, available at <https://floridadep.gov/sites/default/files/Final%20Strategic%20Plan%202012-13-2019%201.pdf>; Rethink. Reset. Recycle., *About*, <https://floridarecycles.org/> (last visited Jan. 31, 2020).

<sup>41</sup> See EPA, *Sustainable Materials Management Basics*, <https://www.epa.gov/smm/sustainable-materials-management-basics> (last visited Jan. 31, 2020).

<sup>42</sup> *DEP 2019 Report*, at 10.

<sup>43</sup> *Id.* at 11.

yielded positive results for the recycling industry. The unexpected consequence of single stream recycling has been the collection of unwanted materials and poorly sorted recovered materials, resulting in increased contamination originating in the curbside recycling cart.<sup>44</sup>

Contamination hinders processing at recovered materials processing facilities (RMPFs) when unwanted items are placed into recycling carts.<sup>45</sup> For example, plastic bags are harmful to the automated equipment typically used to process and separate recyclable materials from single stream collections. While RMPFs are equipped to handle some non-recyclable materials, excessive contamination can undermine the recycling process and result in additional sorting, processing, energy consumption, and other increased costs due to equipment downtime, repair, or replacement needs. In addition to increased recycling processing costs, contamination also results in poorer quality recovered materials, and increased rejection and landfilling of materials. Although some local governments have implemented successful single-stream recycling programs with low contamination rates, contamination rates for other programs have continued to increase.<sup>46</sup>

### ***Recycling Markets***

Until 2017, China consumed over 50 percent of the recycled paper and plastic in the world, including 70 percent of the plastics collected for recycling in the U.S.<sup>47</sup> In 2017, China announced a ban on the import of 24 recyclable materials, such as post-consumer plastics and mixed paper, as well as a 0.5 percent contamination standard for most recyclables not named in the ban.<sup>48</sup> In 2018, the ban was expanded to include post-industrial plastics and a variety of scrap metals, and China implemented pre-shipment inspection requirements for inbound loads of certain material.<sup>49</sup> The ban has caused shipments of recyclables to other Asian countries to increase dramatically, resulting in nations including India, Malaysia, Indonesia, Thailand, and Vietnam enacting policies restricting the import of recyclable materials.<sup>50</sup>

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<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> National Waste & Recycling Association, *Issue Brief: China's Changing Policies on Imported Recyclables*, 1 (Apr. 2018), available at [https://c.ymcdn.com/sites/wasterecycling.site-ym.com/resource/resmgr/files/issue\\_brief/China's\\_Changing\\_Policies\\_on.pdf](https://c.ymcdn.com/sites/wasterecycling.site-ym.com/resource/resmgr/files/issue_brief/China's_Changing_Policies_on.pdf); Cheryl Katz, *Piling Up: How China's Ban on Importing Waste Has Stalled Global Recycling*, Yale Environment 360 (Mar. 7, 2019), <https://e360.yale.edu/features/piling-up-how-chinas-ban-on-importing-waste-has-stalled-global-recycling> (last visited Jan. 31, 2020).

<sup>48</sup> Resource Recycling, *From Green Fence to Red Alert: A China Timeline*, <https://resource-recycling.com/recycling/2018/02/13/green-fence-red-alert-china-timeline/> (last visited Jan. 31, 2020); National Waste & Recycling Association, *Issue Brief: China's Changing Policies on Imported Recyclables*, 1 (Apr. 2018).

<sup>49</sup> Resource Recycling, *From Green Fence to Red Alert: A China Timeline*; see also Resource Recycling, *China Reiterates Total Ban and Tries to Define "Solid Waste"* (Apr. 9, 2019), available at <https://resource-recycling.com/recycling/2019/04/09/china-reiterates-total-ban-and-tries-to-define-solid-waste/> (last visited Jan. 31, 2020).

China is planning a total ban on virtually all recovered material imports.

<sup>50</sup> Resource Recycling, *From Green Fence to Red Alert: A China Timeline*; Christopher Joyce, *Where Will Your Plastic Trash Go Now That China Doesn't Want It?*, NPR (Mar. 13, 2019), <https://www.npr.org/sections/goatsandsoda/2019/03/13/702501726/where-will-your-plastic-trash-go-now-that-china-doesnt-want-it> (last visited Jan. 31, 2020).

China's recycling ban has created substantial challenges around the world for the solid waste and recycling industry.<sup>51</sup> The loss of the Chinese export markets has caused recyclable materials to be sent to landfills or burned.<sup>52</sup> China's ban and higher standards for contamination are leading to higher costs and lower revenues for the U.S. recycling industry.<sup>53</sup> In Florida, local governments are struggling with issues such as rising costs of processing and high contamination rates.<sup>54</sup> DEP reports that these changes in the markets create challenges for Florida as it tries to increase its recycling rates because future growth is dependent on healthy markets.<sup>55</sup> The increased supply of recyclable materials and decreased demand from end markets has resulted in a depression of commodities prices in the recycling industry.<sup>56</sup> In response, DEP has utilized state programs and engaged various stakeholders to develop and grow Florida's recycling markets.<sup>57</sup>

The reduction in global markets has forced many waste haulers and waste management companies to reduce the amount of contamination, i.e., unwanted items found in recycling bins, being transported and delivered to their processing facilities.<sup>58</sup> Reducing contamination increases the value of the recovered materials.<sup>59</sup> Due to decreases in the average price for mixed recovered materials, several counties have been asked to renegotiate their recycling contracts.<sup>60</sup> Many of the contracts have clauses that stipulate contamination must be below a certain percentage or the local government will be charged a much higher rate and/or penalized.<sup>61</sup>

### **Exceptions to Requirements for Environmental Resource Permitting**

DEP's Environmental Resource Permitting (ERP) program regulates activities involving the alteration of surface water flows.<sup>62</sup> The ERP program governs the construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and works (including docks, piers, structures, dredging, and filling located in, on, or over wetlands or other surface waters).<sup>63</sup>

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<sup>51</sup> See Brooks et. al., *The Chinese Import Ban and Its Impact on Global Plastic Waste Trade*, SCIENCES ADVANCES (Jun. 20, 2019), available at <https://advances.sciencemag.org/content/advances/4/6/eaat0131.full.pdf> (last visited Jan. 31, 2020).

<sup>52</sup> Cheryl Katz, *Piling Up: How China's Ban on Importing Waste Has Stalled Global Recycling*, Yale Environment 360 (March 7, 2019), <https://e360.yale.edu/features/piling-up-how-chinas-ban-on-importing-waste-has-stalled-global-recycling> (last visited Jan. 31, 2020).

<sup>53</sup> National Waste & Recycling Association, *Issue Brief: China's Changing Policies on Imported Recyclables*, 1-2 (Apr. 2018), available at [https://c.ymcdn.com/sites/wasterecycling.site-ym.com/resource/resmgr/files/issue\\_brief/China's\\_Changing\\_Policies\\_on.pdf](https://c.ymcdn.com/sites/wasterecycling.site-ym.com/resource/resmgr/files/issue_brief/China's_Changing_Policies_on.pdf) (last visited Jan. 31, 2020).

<sup>54</sup> Waste Dive, *How Recycling is Changing in All 50 States* (June 5, 2019), <https://www.wastedive.com/news/what-chinese-import-policies-mean-for-all-50-states/510751/> (last visited Jan. 31, 2020).

<sup>55</sup> *DEP 2017 Report*, at 15, available at [https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1\\_0\\_0.pdf](https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf).

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at 15-17; *DEP 2019 Report*, at 12-15, available at [https://floridadep.gov/sites/default/files/Final%20Strategic\\_Plan\\_2019%202012-13-2019\\_1.pdf](https://floridadep.gov/sites/default/files/Final%20Strategic_Plan_2019%202012-13-2019_1.pdf).

<sup>58</sup> *DEP 2019 Report*, at 12.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at 12-13.

<sup>62</sup> Chapter 373, p. IV, F.S.; Fla. Admin. Code Ch. 62-330; DEP, *DEP 101: Environmental Resource Permitting*, available at: <https://floridadep.gov/comm/press-office/content/dep-101-environmental-resource-permitting> (last visited Oct. 29, 2019).

<sup>63</sup> Fla. Admin. Code R. 62-330.010. The responsibilities for implementing the statewide ERP program are partially delegated by DEP to the water management districts and certain local governments.

For some low impact activities and projects that are narrow in scope, an ERP permit is not required under state law.<sup>64</sup> Engaging in these activities and projects requires compliance with applicable local requirements, but generally requires no notice to DEP.<sup>65</sup> A broad array of activities are expressly exempt from the ERP program, these include but are not limited to: the installation of overhead transmission lines; installation and maintenance of boat ramps; work on seawalls and mooring pilings, swales, and footbridges; the removal of aquatic plants; construction and operation of floating vessel platforms; and work on county roads and bridges.<sup>66</sup> Included among activities exempt from the requirement to obtain an ERP permit is the replacement or repair of existing docks and piers if fill material is not used and the replaced or repaired dock or pier is in the same location and of the same configuration and dimensions as the dock or pier being replaced or repaired.<sup>67</sup> Although permitting is not required for these activities, there may be a requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or a water management district in its governmental or proprietary capacity.<sup>68</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 403.706, F.S., which establishes the responsibilities and authority of local governments to provide facilities and programs for solid waste management and recycling.

The bill defines a “residential recycling collector” as “a for-profit business entity that collects and transports residential recyclable material on behalf of a county or municipality.”

The bill states that after a contract is executed, a residential recycling collector is not required to collect or transport contaminated recycling material, except according to a contract consistent with the requirements below. The bill requires that each contract between a residential recycling collector and a county or municipality for the collection or transport of waste, and each request for proposal or other solicitation for the collection of residential recycling material, include all of the following:

- A definition of “contaminated recyclable material” that is appropriate for the local community.
- The respective strategies and obligations of the local government and residential recycling collector to reduce the amount of contaminated recyclable material being collected.
- The procedures for identifying, documenting, managing, and rejecting residential recycling containers, truckloads, carts, or bins containing contaminated recyclable material.
- The remedies authorized to be used if a container, cart, or bin contains contaminated recyclable material.
- The education and enforcement measures that will be used to reduce the amount of contaminated recyclable material.

The bill states that after a contract is executed, a recovered materials processing facility is not required to process contaminated recyclable material, except according to a contract consistent

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<sup>64</sup> Section 403.813, F.S.

<sup>65</sup> Fla. Admin. Code Rules 62-330.050(1) and 62-330.051(2).

<sup>66</sup> Section 403.813(1), F.S.; Fla. Admin. Code R. 62-330.051.

<sup>67</sup> Section 403.813(1)(d), F.S.

<sup>68</sup> Section 403.813(1), F.S.

with the requirements below. The bill requires that each contract between a recovered materials processing facility and a county or municipality for processing residential recyclable material, and each request for proposal or other solicitation for processing residential recyclable material, include all of the following:

- A definition of “contaminated recyclable material” that is appropriate for the local community.
- The respective strategies and obligations of the local government and the facility to reduce the amount of contaminated recyclable material being collected and processed.
- The procedures for identifying, documenting, managing, and rejecting residential recycling containers, truckloads, carts, or bins containing contaminated recyclable materials.
- The remedies authorized to be used if a container or truckload contains contaminated recyclable material.

These contractual requirements apply only to the collection and processing of material obtained from residential recycling activities. As used in the bill, the term “contaminated recyclable material” refers only to recyclable material that is commingled or mixed with solid waste or other nonhazardous material. Contaminated recyclable material, as used in the bill, does not include “contamination” as used in programs such as brownfield site cleanup, water quality remediation, drycleaning-solvent-contaminated site cleanup, petroleum-contaminated site cleanup, cattle dipping vat site cleanup, or other hazardous waste remediation.

The contractual requirements apply to each contract between a municipality or county and a residential recycling collector or recovered materials processing facility executed or renewed after October 1, 2020.

**Section 2** amends s. 403.813, F.S., which identifies certain activities for which an environmental resource permit is not required.

The bill prohibits a local government from requiring a person claiming an exemption under s. 403.813(1), F.S., to provide further verification from the Department of Environmental Protection.

The bill revises the exemption in current law from environmental resource permitting for the replacement or repair of existing docks or piers. Rather than requiring that the replaced or repaired dock or pier be in the same location and of the same configuration and dimensions as the dock or pier being replaced or repaired, the bill states that it must be within 5 feet of the same location and no larger than the existing dock or pier. No additional aquatic resources may be adversely and permanently impacted by such replacement or repair.

**Section 3** states that this act shall take effect on July 1, 2020.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill provides recycling collectors the right to refuse collection of recyclable materials that are deemed contaminated under the contract. This right may produce an indeterminate positive fiscal impact for private sector recycling collectors and facilities through a reduction of costs associated with removing contaminated material from recyclables.

The bill may also have a positive fiscal impact on the private sector by expanding the permit exception for the replacement or repair of existing docks and piers if it results in more docks being built or repaired.

**C. Government Sector Impact:**

The bill may have a negative fiscal impact on local governments that must negotiate new required contract terms, including defining “contaminated recyclable materials,” with residential recycling collectors and recovered materials processing facilities.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 403.706, 403.813

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Environment and Natural Resources Committee on November 4, 2019:**

- Deletes the requirement that the definition of “contaminated recyclable material” in certain local government contracts must take into consideration the available markets for recyclable material, available waste composition studies, and other relevant factors.
- Clarifies that after the execution of a contract is when a residential recycling collector or recycled material processing facility is not required to collect, transport, or process contaminated recyclable material except pursuant to specified contractual requirements.

**B. Amendments:**

None.