

# FLORIDA HOUSE OF REPRESENTATIVES

## BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [CS/HB 1609](#)

**TITLE:** Waste Incineration

**SPONSOR(S):** Weinberger, Borrero

**COMPANION BILL:** [SB 1008](#) (Avila)

**LINKED BILLS:** None

**RELATED BILLS:** None

### Committee References

[Intergovernmental Affairs](#)

11 Y, 3 N, As CS



[State Affairs](#)

20 Y, 2 N

## SUMMARY

### Effect of the Bill:

The bill prohibits the Department of Environmental Protection and local governments from issuing a construction permit for certain types of waste disposal facilities with proposed locations that are within a half-mile radius of residential properties or schools. This prohibition does not apply to any construction, current operation, or modification to structures or operations that exist as of July 1, 2025.

### Fiscal or Economic Impact:

None

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## ANALYSIS

### EFFECT OF THE BILL:

The bill prohibits the Department of Environmental Protection and local governments from issuing a construction permit for a [waste-to-energy](#) facility or a [solid waste disposal](#) facility that uses an ash-producing incinerator if the facility's proposed location is within a half-mile radius, as measured from the stack, of any residential property or school. (Sections [1](#) and [2](#))

The provisions of the bill do not apply to any construction, current operation, or modification to structures or operations that exist as of July 1, 2025. (Sections [1](#) and [2](#))

The bill makes conforming changes to update cross-references. (Sections [3](#), [4](#), and [5](#))

The effective date of the bill is July 1, 2025. (Section [6](#))

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### [Solid Waste Disposal](#)

Solid waste<sup>1</sup> disposal methods may include recycling, composting, incineration, landfill disposal or other specialized treatments.<sup>2</sup> The Department of Environmental Protection (DEP) is responsible for implementing and enforcing Florida's solid waste management program, which provides guidelines for the storage, separation,

<sup>1</sup> Section [403.703\(35\), F.S.](#), defines solid waste to mean sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

<sup>2</sup> See, e.g., U.S. Environmental Protection Agency, [Sustainable Materials Management: Non-Hazardous Materials and Waste Management Hierarchy](#) (last visited Mar. 11, 2025). See also, IDR Environmental Services, [What is Solid Waste?](#) (last visited Mar. 11, 2025).

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processing, recovery, recycling, and disposal of solid waste throughout the state.<sup>3</sup> The program includes procedures and requirements to ensure cooperative efforts in solid waste management by counties, municipalities, and groups of counties and municipalities.<sup>4</sup> A solid waste management facility may not be operated, maintained, constructed, expanded, modified, or closed without receiving a permit from DEP.<sup>5</sup>

Counties are responsible for operating solid waste disposal facilities, which are also permitted through DEP, in order to meet the needs of the incorporated and unincorporated areas of the county. Counties may contract with other persons to fulfill some or all of its solid waste responsibilities.<sup>6</sup> DEP may adopt rules to establish performance standards for construction and closure of solid waste management facilities.<sup>7</sup> Current law requires that when DEP receives an application for construction of a new Class I solid waste disposal facility, it must transmit a copy of the permit application to the water management district with jurisdiction over the proposed facility location within seven days of the application being filed.<sup>8</sup> The water management district may then provide an advisory report, within 30 days, on the potential impact of the facility to water resources.<sup>9</sup> The issuance of a construction permit for a new solid waste disposal facility within 3,000 feet of certain surface waters is prohibited.<sup>10</sup> DEP rules also prohibit locating a solid waste disposal unit in the 100-year floodplain if it will restrict the flow of water, reduce the water storage capacity of the floodplain without compensating storage, or result in a washout of solid waste.<sup>11</sup>

### **Municipal Solid Waste-to-Energy**

Energy recovery from waste is the conversion of non-recyclable waste materials into usable heat, electricity, or fuel through processes, including combustion, gasification, pyrolyzation, anaerobic digestion and landfill gas recovery.<sup>12</sup> This process is known as waste-to-energy (WTE). WTE facilities combust municipal solid waste (MSW) to thermally break down solid, liquid, or gaseous combustible solid waste to an ash residue that contains little or no combustible material and that produces electricity, steam, or other energy as a result.<sup>13</sup> MSW can contain:

- Biomass, or biogenic (plant or animal products) materials such as paper, cardboard, food waste, grass clippings, leaves, wood, and leather products;
- Non-biomass combustible materials such as plastics and other synthetic materials made from petroleum; and
- Non-combustible materials such as glass and metals.<sup>14</sup>

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<sup>3</sup> S. [403.705, F.S.](#)

<sup>4</sup> S. [403.705\(2\)\(a\), F.S.](#)

<sup>5</sup> See s. [403.707\(1\), F.S.](#)

<sup>6</sup> S. [403.706\(1\) and \(8\), F.S.](#) Section [403.703\(36\), F.S.](#), defines solid waste disposal facilities as any solid waste management facility that is the final resting place for solid waste, including landfills and incineration facilities that produce ash from the process of incinerating municipal solid waste.

<sup>7</sup> S. [403.707\(1\), F.S.](#)

<sup>8</sup> S. [403.707\(4\), F.S.](#) A Class I landfill is a landfill that accepts Class I waste. See Rule 62-701.340(2)(a), F.A.C. Class I waste means solid waste that is not hazardous waste, and that is not prohibited from disposal in a lined landfill. See 62-701.200(13), F.A.C.

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

<sup>10</sup> S. [403.707\(5\), F.S.](#)

<sup>11</sup> R. 62-701.340(3)(b), F.A.C.

<sup>12</sup> U.S. Environmental Protection Agency, [Energy Recovery from the Combustion of Municipal Solid Waste](#) (last visited Mar. 11, 2025).

<sup>13</sup> S. [403.7061\(4\), F.S.](#) See also, U.S. Energy Information Administration, [Biomass Explained: Waste-to-Energy](#) (last visited Mar. 11, 2025).

<sup>14</sup> *Id.*

Florida has the largest capacity to burn MSW of any state in the country,<sup>15</sup> with 10 WTE facilities operating in seven counties.<sup>16</sup> Current law encourages local governments seeking permits for constructing or expanding a Class I landfill to consider construction of a WTE facility as an alternative to additional landfill space.<sup>17</sup>

DEP regulates and issues permits for WTE facilities.<sup>18</sup> Each applicant for a permit to construct a new WTE facility or to expand the capacity of an existing WTE facility must provide reasonable assurance that:

- The proposed facility is a necessary part of the local government's integrated solid waste management program;
- The capacity of existing WTE facilities has been evaluated and not found to be economically feasible in comparison to the proposed facility;
- The local governments served by the proposed facility have implemented programs for yard trash waste reduction, the separation of household hazardous waste, and to procure products or materials with recycled content;
- The local governments served by the proposed facility will have a program for collecting and recycling commercial and industrial material before the proposed facility begins operations;
- The facility will comply with applicable local ordinances; and
- The facility is in compliance with its permit, conditions of certification, and any agreements or orders resulting from environmental enforcement actions by state agencies.<sup>19</sup>

DEP can exempt certain types of facilities from permit requirements if it determines that construction or operation of the facility is not expected to create any significant threat to the environment or public health.<sup>20</sup>

DEP must allow WTE facilities to maximize acceptance and processing of nonhazardous solid and liquid waste.<sup>21</sup> Ash from WTE facilities must be disposed of in a lined MSW landfill or a lined ash monofill, since a U.S. Environmental Protection Agency (EPA) study showed that ash from WTE facilities should not be classified as hazardous waste.<sup>22</sup>

EPA regulates emissions from nine air pollutants (particulate matter, carbon monoxide, dioxins/furans, sulfur dioxide, nitrogen oxides, hydrogen chloride, lead, mercury, and cadmium) from four categories of solid waste incineration units: (1) municipal solid waste; (2) hospital, medical and infectious solid waste; (3) commercial and industrial solid waste; and (4) other solid waste.<sup>23</sup> Emission limits may vary depending on the size and type of the facility (e.g., large versus small municipal waste combustors) and whether the materials incinerated are

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<sup>15</sup> DEP, [Waste-to-Energy](#) (last visited Mar. 11, 2025).

<sup>16</sup> In March 2022, DEP reported 11 WTE facilities operating in eight counties, including City of Tampa's McKay Bay facility in Hillsborough County. See DEP, [Florida Waste-to-Energy Facilities](#) (last visited Mar. 11, 2025). However, in February 2023, the Miami-Dade WTE facility burned down. See Miami-Dade County, [Fire at County Waste-to-Energy Facility](#) (last visited Mar. 11, 2025). The remaining facilities are located in Broward County (2), Hillsborough County (2), Lake County (1), Lee County (1), Palm Beach County (2), Pasco County (1), and Pinellas County (1).

<sup>17</sup> S. [403.70611, F.S.](#)

<sup>18</sup> Section. [403.704\(9\), F.S.](#), authorizes DEP to adopt rules to enforce the provisions of ch. 403, F.S., including requirements for the classification, construction, operation, maintenance, and closure of solid waste management facilities and requirements for, and conditions on, solid waste disposal. Section [403.7061, F.S.](#), further authorizes DEP to evaluate applications for WTE facilities. In addition to a solid waste management facility permit, WTE facilities may also require an air construction and operation permits. See ss. [403.707\(6\)](#) and [403.087\(1\), F.S.](#); R. 62-210.300, F.A.C. See also DEP, [Air Construction Permits](#) (last visited Mar. 11, 2025).

<sup>19</sup> S. [403.7061\(3\), F.S.](#)

<sup>20</sup> S. [403.707\(1\), F.S.](#)

<sup>21</sup> S. [403.707\(1\), F.S.](#)

<sup>22</sup> DEP, [Waste-to-Energy](#) (last visited Mar. 14, 2025).

<sup>23</sup> EPA, [Large Municipal Waste Combustors \(LMWC\): New Source Performance Standards \(NSPS\) and Emissions Guideline](#) (last visited Mar. 21, 2025); see also 71 Fed. Reg. 27325-26 (adopting final rule regarding standards of performance for new stationary sources and emission guidelines for existing sources: large municipal waste combustors); 40 CFR part 60.

hazardous.<sup>24</sup> In 2024, EPA proposed stricter standards for large municipal waste combustion units.<sup>25</sup> EPA is also considering requiring waste incinerators to report toxic releases to the toxic release inventory, which tracks the management of certain toxic chemicals.<sup>26</sup>

BILL HISTORY				
COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#">Intergovernmental Affairs Subcommittee</a>	11 Y, 3 N, As CS	3/26/2025	Darden	Jones
THE CHANGES ADOPTED BY THE COMMITTEE:	<ul style="list-style-type: none"><li>Revises the restriction on proposed facility locations to apply to locations within a one-half mile radius of any residential property or school, as measured from the stack.</li><li>Provides that the bill does not apply to any construction, current operation, or modification to current structures or operations that exist as of July 1, 2025.</li></ul>			
<a href="#">State Affairs Committee</a>	20 Y, 2 N	4/17/2025	Williamson	Jones

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**THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.**  
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<sup>24</sup> See generally EPA, [Clean Air Act Guidelines and Standards for Waste Management](#) (last visited Mar. 14, 2025).  
<sup>25</sup> 89 Fed. Reg. 4243, 4246 (Jan. 23, 2024) (proposing amendments to 40 CFR part 60). Large municipal waste combustors combust greater than 250 tons per day of municipal solid waste. 40 CFR 60.32b and 60.50b. See also EPA, [Large Municipal Waste Combustors \(LMWC\): New Source Performance Standards \(NSPS\) and Emissions Guidelines](#) (last visited Mar. 14, 2025).  
<sup>26</sup> EPA, [Memorandum re: Petition for Rulemaking Pursuant to the Administrative Procedure Act and the Emergency Planning and Community Right-to-Know Act, Requiring that Waste Incinerators Report to the Toxics Release Inventory, 1-2 \(2024\)](#) (last visited Mar. 14, 2025); see also EPA, [What is the Toxics Release Inventory?](#) (last visited Mar. 14, 2025).