

**STORAGE NAME:** h3729a.grr

**DATE:** April 15, 1998

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
GOVERNMENTAL RULES AND REGULATIONS  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 3729

**RELATING TO:** Solid Waste Management

**SPONSOR(S):** Representative Bradley

**COMPANION BILL(S):** SB 1058 By Senator Lee

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

- (1) ENVIRONMENTAL PROTECTION YEAS 10 NAYS 0
  - (2) GOVERNMENTAL RULES AND REGULATIONS YEAS 6 NAYS 0
  - (3)
  - (4)
  - (5)
- 

I. SUMMARY:

This bill authorizes the Department of Environmental Protection (department) to allow ash residue to be reused and recycled using methods that meet department standards and criteria. The department will be given the authority to adopt the rules necessary for administering the program.

The act will take effect upon becoming law.

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II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The department regulates the disposal of ash generated by the burning of solid waste pursuant to s. 403.7045(5), F.S., which directs them to develop standards for disposal through rulemaking. This subsection also directs the department to work with solid waste management facilities which burn solid waste to identify and develop methods for recycling and reuse of incineration ash. Under this authority the department has adopted ch. 62-702, FAC, regulating the handling, disposal, and recycling of ash residue.

In 1996, the Legislature significantly revised ch. 120, F.S., the Administrative Procedure Act. The revisions, among other things, provided for a more strict standard by which agencies are to adopt rules. See s. 120.536(1), F.S. Applying the new standard for rulemaking found in the APA, the department has concluded that it does not have sufficient statutory authority to authorize the recycling or reuse of incineration ash. The existing statutory language and the department's ash rule primarily address the disposal of ash residue from solid waste management facilities.

Ash residue is defined as all the solid residue and any entrained liquids resulting from the combustion of solid waste in a solid waste combustor, including bottom ash, fly ash and combined bottom and fly ash, but excluding recovered metals, glass, and other recovered materials separated from the ash residue. Ch. 62-701.200, FAC.

B. EFFECT OF PROPOSED CHANGES:

The department will be authorized to allow recycling or reuse of ash residue by applicants who demonstrate that no significant threat to public health will result and that applicable department standards and criteria will not be violated. The department's Division of Waste Management will direct the district offices and bureaus on matters relating to the interpretation and applicability. The department may adopt rules necessary for administration, but is not required to amend its existing rules.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

The bill appears to provide authorization for a Department rule, regulating the recycling of ash residue, identified by the Department and reported to the JAPC as exceeding rulemaking authority pursuant to s. 120.536, F.S. See Ch. 62-702.600, FAC.

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(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 403.7045, F.S.

E. SECTION-BY-SECTION RESEARCH:

**Section 1:** Amends s. 403.7045, F.S. Provides the department the authority to allow recycling and reuse of ash residue.

**Section 2:** Provides an effective date of becoming law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

See fiscal comments.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

See comments below.

3. Effects on Competition, Private Enterprise and Employment Markets:

See comments below.

D. FISCAL COMMENTS:

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

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A. **APPLICABILITY OF THE MANDATES PROVISION:**

This bill does not require the counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. **COMMENTS:**

Local governments, and companies that operate waste-to-energy plants, would like to demonstrate to the department that this ash can be recycled and reused safely. If the department approves specific ash reuse projects, then local governments and other operators could potentially save space in their landfills and reduce the costs associated with ash disposal.

VI. **AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

On April 15, 1998, the Committee on Governmental Rules and Regulations adopted an amendment that rewrote the grant of rulemaking authority found in the bill to tailor the grant to the activities found within the bill.

VII. **SIGNATURES:**

**COMMITTEE ON ENVIRONMENTAL PROTECTION:**

Prepared by:

Legislative Research Director:

Chris Flack

Wayne Kiger

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