

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 1788

SPONSOR: Senator McKay

SUBJECT: Florida Statutes/Repeals

DATE: March 7, 2000

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Branning</u>	<u>Voigt</u>	<u>NR</u>	<u>Favorable</u>
2.	_____	_____	<u>RC</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill repeals various statutory provisions that have become obsolete, have had their effect, or have been impliedly repealed or superseded.

This bill amends or repeals the following sections of the Florida Statutes: 161.163, 161.56, 258.09, 258.10, 258.11, 258.12, 258.14, 258.15, 212.08, 376.185, 376.11, 376.303, 376.30714, 376.3071, 377.02, 378.208, 403.085, 403.086, 403.0872, 403.08851, 403.1826, 403.221, 403.7046, 403.703, 403.7049, 403.706, 403.707, 403.708, 403.716, 403.7186, 403.7191, 403.7192, 403.7199, 403.724, 403.7265, 403.767, 403.769, 533.01, 533.02, 533.03, 533.04, 533.05, and 533.06.

II. Present Situation:

During the 1999-2000 legislative session interim, staff of the House of Representatives reviewed each chapter of the five volumes of the Florida Statutes to find provisions which were outdated or obsolete. Upon completion of the first draft, staff of Senate counterpart committees reviewed the work product to further refine the sections identified. The final list of some one thousand original section of Florida law contained an identification of statutory sections which shared one or more of the following characteristics:

1. A reference to a dormant board, council or other non-governing authority;
2. A provision rendered obsolete due to the passage of time.
3. A requirement which was nonrecurring due to the completion of the activity.
4. A statement of legislative intent, findings or purpose so generalized as to provide no specific interpretive guidance on the context or particularity of the statute or its application.

5. A cross-reference to another section which was otherwise repealed.
6. The use of boilerplate language, such as severability clause, which is assumed as part of legislative style and drafting or of judicial interpretation.
7. The creation of a short title, or popular name, unrelated to the purpose of the statute.
8. The use of archaic language or descriptions.
9. A redundancy in text or reference no longer needed.

III. Effect of Proposed Changes:

This bill removes several provisions in ch. 161, 258, 212, 376, 377, 378, 403, and 533, F.S., that are no longer needed and amends other provisions in those chapters to correct certain cross-references.

Section 1: Section 161.163, F.S., provides that the Department of Environmental Protection is to adopt by rule a designation of coastal areas which are used by sea turtles for nesting by July 1, 1988. Also, the department is to adopt guidelines for local governments to regulate beach front lighting. This statute is necessary to protect sea turtle nesting and the text should be retained, however, the date has served its purpose and is to be deleted.

Section 2: Section 161.56, F.S., requires the state land planning agency to submit evidence that it has adopted a building code to the Administration Commission within 90 days after January 1, 1987. This statutory section establishes local enforcement and therefore, would be retained. However, the date reference is obsolete and is deleted.

Section 3: Sections 258.09, 258.10, 258.11, 258.12, 258.14, and 258.15, F.S., relate to Rauscher Park, Royal Palm State Park, and St. Michael's cemetery. These designations were made prior to this state's park system and therefore, are not a part of the current park system. As a result, these sections are obsolete and are deleted.

Section 4: Section 212.08(13), F.S., relates to tax exemptions for sales, rental, use, consumption, distributions and storage tax. This bill updates a statutory reference to s. 258.14, F.S.

Section 5: Section 376.185, F.S., provides that the Department of Environmental Protection is to submit their budget requests to the Legislature, and upon appropriation thereof by the Legislature, the funds are to be authorized for expenditure and approved by the department. This is the current process even without this statute in place, and therefore, this language is unnecessary.

Section 6: Section 376.11(4)(a), F.S., states that moneys in the Florida Coastal Protection Fund are to be disbursed for administrative, personnel and equipment costs. This bill removes an obsolete reference.

Section 7: Section 376.303(1)(e), F.S., establishes a technical advisory committee for the regulation of aboveground storage tanks. However, this committee is obsolete since legislation regarding above ground tanks and hazardous substance tanks now exists. Therefore, this statute is repealed.

Section 8: Section 376.30714(23), F.S., relates to site rehabilitation agreements. This bill updates a statutory reference to s. 376.303, F.S.

Section 9: Section 376.3071(6)(c), F.S., provides for a \$5 million loan from the Coastal Protection Trust Fund. This loan has been made and now this language is obsolete and is therefore repealed. Section 376.3071(12)(k), F.S., relates to the department promulgating rules in relation to reimbursement for cleanup expenses under the Inland Protection Trust Fund. The Administration Commission has promulgated the model rules referred to in this provision. Therefore, this section is amended to remove this obsolete requirement.

Section 10: Section 377.02, F.S., provides the form of the interstate compact to conserve oil and gas in 1945 which was to be used by Florida had Florida chosen to be a party. Florida is a nonparty to the interstate compact and therefore, this form is obsolete and this statute is repealed.

Section 11: Section 378.208(3), F.S., provides that operators of mines have until July 1, 1988 to meet the rate of reclamation without having to post security. This provision has been administered and is now obsolete.

Section 12: Section 403.085(2), F.S., states that certain sanitary sewage treatment plants are to provide for secondary waste treatment and advanced waste treatment by January 3, 1974. The dates are obsolete, however, this provision addresses minimum levels of treatment for existing systems. Therefore, the date references are deleted but the existing standards are retained

Section 403.085(4), F.S., states that certain plants which discharge industrial waste are to provide for secondary waste treatment by January 3, 1974. This statutory section is outdated and therefore, obsolete. The dates are obsolete, however, this provision addresses minimum levels of treatment for existing systems. Therefore, the date references are deleted but the existing standards are retained.

Section 13: Section 403.086(2), F.S., states that any facility for sanitary sewage disposal in existence on July 1, 1971, shall provide for secondary waste treatment by January 1, 1973 and provides for a penalty for noncompliance. The dates are obsolete, however, this provision addresses minimum levels of treatment for existing systems. Therefore, the date references are deleted but the existing standards are retained

Section 14: Section 403.0872(11)(c), F.S., calls for an audit of the major stationary source air operation permit program two years after the EPA has approved the program, or by the end of 1996, whichever comes later. This date is obsolete and therefore, the date reference is repealed.

Section 15: Section 403.08851, F.S., provides an implementation of this act upon approval by the EPA of the National Pollutant Discharge Elimination System program of the state. Provides

that no state permit be issued prior to July 1, 1994. This statutory section is now obsolete and therefore is repealed.

Section 16: Section 403.1826(6)(b), F.S., provides that the department may waive an accumulation requirement for a grantee of certain pollution and water sewage treatment grants where that grantee is in a county as defined in s. 125.011(1), F.S., and certifies to the department that an equivalent amount of money will be used. This subsection expires by its own terms on July 1, 2000 and therefore will become obsolete when this bill takes effect.

Section 17: Section 403.221, F.S., provides that no pending legal proceedings are to be abated because of any transfers made in this section. This section dates back to at least 1967 and the pending legal proceedings intended under this statute are now moot or barred. This statutory section is outdated and obsolete and therefore is repealed.

Section 18: Section 403.7046(1), F.S., states that after January 1, 1994, any person who handles recovered materials is to make an annual certification to the department. This is the existing requirement. Therefore, the date served its purpose and is to be removed from this subsection since it is now obsolete.

Section 19: Section 403.703(10), F.S., sets forth the definition of “solid waste management facility”. The cross-reference is updated.

Section 20: Section 403.7049(1), F.S., provides that within 1 year of October 1, 1988 or within 1 year after the rules are established by the department, each county is to determine the full cost of solid waste management within their service area for a one year period beginning October 1, 1988. The full cost is to be updated annually. In addition, rulemaking is to be initiated to develop a method for local governments to use in calculating the full costs and at least one public hearing is to be held by March 1, 1989. Although this is still the existing standard, the dates have become obsolete and therefore, the date references are deleted.

Section 403.7049(2)(a), F.S., states that within 1 year from October 1, 1988, each municipality is to establish a system to inform the users of solid waste management services of the full cost for solid waste management. Although this is still the existing standard, the dates have become obsolete and therefore, the date references are deleted.

Section 21: Section 403.706(4)(a), F.S., provides that goals for municipal solid waste are to be met by the end of 1994. This date is obsolete and therefore is removed.

Section 403.706(18), F.S., states that on or after July 1, 1989 each operator of a solid waste management facility, owned or operated by or on behalf of a county or municipality, shall weigh all of the solid waste when it is received. (This will not apply to any facility which will not be in use 1 year after October 1, 1988.) Although this is still the existing standard, the dates have become obsolete and therefore, the date references are deleted.

Section 22: Section 403.707(1), F.S., states that effective October 1, 1989, any permit conditions needed to achieve compliance with the recycling requirements of this act may be

included in solid waste construction permits issued under this section. Although this is still the existing standard, the dates have become obsolete and therefore, the date references are deleted.

Section 23: Section 403.708(2), F.S., states that no beverage is to be sold in a beverage container that is opened by detaching a metal ring or tab after January 1, 1989. Although this is still the existing standard, the dates have become obsolete and therefore, the date references are deleted.

Section 403.708(9), F.S., states that no person is to distribute or sell a product packaged in a container or packing material that is made with fully halogenated chlorofluorocarbons, or CFC, on or after October 1, 1990. Although this is still the existing standard, the dates have become obsolete and therefore, the date references are deleted.

Section 24: Section 403.716(3), F.S., provides that after July 1, 1991, a person may not perform the duties of an operator of a landfill and after July 1, 1994, a person may not perform the duties of an operator of a waste-to-energy facility and other certain facilities without first completing an approved operator training course. This is the current requirement. These dates have served their purpose, therefore, the date references are to be removed from this statutory subsection.

Section 25: Section 403.7186(2), F.S., states that after July 1, 1994, the Secretary may, by rule, designate certain sections of the state as those sections in which a person may not place certain mercury-containing devices in a mixed solid waste stream. In addition, after January 1, 1996, a mercury-containing device shall not be knowingly disposed of in a landfill. These are the current requirements and these dates have served their purpose and are now obsolete.

Section 403.7186(3), F.S., provides that after July 1, 1994, mercury-containing lamps are not to be incinerated. Section 403.7186(4)(a) and (b), F.S., provide that after July 1, 1994, disposal of more than 10 spent lamps per month is to be arranged at permitted landfills and the department may, by rule, designate regions of the state where such disposal shall be arranged at appropriate remitted reclamation facilities. These are the current requirements and these dates have served their purpose and are now obsolete.

Section 26: Section 403.7191(3), F.S., provides that after July 1, 1996, a manufacturer or distributor may not sell a package or packaging component with a total concentration of lead, cadmium, mercury, and hexavalent chromium that exceeds 100 parts per million by weight. This date has served its purpose and is no longer necessary and therefore the date reference is deleted.

Section 27: Section 403.7192(2)(a), F.S., states that after July 1, 1993, a person is not to sell an alkaline-manganese or zinc-carbon battery that contains more than .025 percent mercury by weight. Furthermore, after January 1, 1996, a person may not sell such a battery that contains intentionally introduced mercury and more than .0004 percent mercury by weight. These are the current standards and these dates have served their purpose and are no longer needed, therefore, the date references are deleted.

Section 403.7192(2)(c), F.S., provides that after October 1, 1993 a person is not to sell a product or dry cell battery containing a mercuric oxide electrode. This date has also served its purpose and therefore, the date reference is deleted in this statutory section.

Section 403.7192(3)(a), F.S., states that a person may not place certain dry cell batteries in a mixed solid waste stream after January 1, 1994. This date has served its purpose and its reference may be deleted.

Section 403.7192(3)(b), F.S., states that after 18 months of the effective date of this provision, a person may not mix a rechargeable battery into the solid waste stream. The date reference is deleted since it has served its purpose.

Section 403.7192(4), F.S., provides that on or after October 1, 1993, certain persons shall not sell products that are powered by rechargeable batteries unless certain criteria are met. This date has served its purpose and therefore this date reference is deleted.

Section 403.7192(5)(a), F.S., states that the Secretary may exempt a sale from this section if the product was available for sale on or before May 12, 1993 and the product cannot be redesigned and manufactured by January 1, 1994. These date references are obsolete and are deleted.

Section 403.7192(6), F.S., provides that manufacturers and distributors must meet certain requirements 6 months after the report required in subsection 7(b) is due to the department and by October 1, 1993. These dates have served their purposed and are no longer applicable, therefore, these date references are deleted.

Section 403.7192(7)(a), F.S., provides for the implementation of pilots projects for the collection and transportation of batteries and products within twelve months after the effective date of this subsection. These pilot projects have been completed and therefore this subsection is obsolete and is repealed.

Section 403.7192(7)(b), F.S., provides that within twenty-five months after the effective date of this subsection, the final results of the pilot projects shall be reported to the department. This portion of the section is obsolete and is amended to read that on or before October 7, 1997 and annually thereafter, for a period of three years, cell manufacturers and marketers are to report to the department their plan to implement subsection (6) herein. The representative organizations of manufacturers are to supply the department with a list of those persons for who the association is conducting the unit management program.

Section 403.7192(8), F.S., provides for the effective dates of the subsections within this statutory section. This subsection is no longer needed and therefore, it is repealed.

Section 28: Section 403.7199, F.S., creates the Florida Packaging Council. This council no longer convenes and appointments are no longer made. This statutory section is obsolete and is repealed.

Section 29: Section 403.724(5), F.S., states that all hazardous waste facilities in operation on October 1, 1980 are to establish financial responsibility within one year after the effective date of the rules, or have the requirement waived. The date reference is obsolete and therefore the date is repealed.

Section 30: Section 403.7265(2), F.S., states that by March 1, 1991, the department is to develop a statewide local hazardous waste management plan which will ensure collection and management of hazardous waste from small generators and household generators. This subsection also sets forth the contents of the plan. The date is obsolete and therefore, the date reference is repealed.

Section 31: Section 403.767(1), F.S., states that after January 1, 1990, any person who transports more than 500 gallons annually of used oil over public highway must be certified. This date is obsolete and therefore, the date reference is deleted.

Section 32: Section 403.769(2), F.S., provides that by January 1, 1990 the department is to develop a permitting system for used oil processing facilities after certain considerations. This date is obsolete, and therefore, this date reference is deleted.

Section 33: Chapter 533, F.S., (consisting of ss. 533.01, 533.02, 533.03, 533.04, 533.05, and 533.06, F.S.) addresses deposits for mine wastes, the escape of mine waste into streams and rivers, injunctions for mining operations as well as attorney's fees and penalties for violating this act. The contents of this act are covered in other statutes. This act is obsolete and no longer in use, and therefore it is repealed.

Section 34: This act takes effect on July 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
