

STORAGE NAME: h4029s1a.ep

DATE: March 2, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ENVIRONMENTAL PROTECTION
ANALYSIS**

BILL #: CS/HB 4029 (PCB RC 00-15)

RELATING TO: Florida Statutes/ Repeals

SPONSOR(S): Committee on Environmental Protection; Committee on Rules & Calendar; and Representative Constantine

TIED BILL(S):

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

- (1) RULES AND CALENDAR YEAS 15 NAYS 0
 - (2) ENVIRONMENTAL PROTECTION YEAS 11 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

CS/HB 4029 adds additional statutory sections to HB 4029 that have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded. Furthermore, in an effort to avoid duplication, CS/HB 4029 does not include the statutory sections that are also being repealed in the Committee on Rules and Calendar's reviser bill (PCB RC 00-33 through 00-43).

This bill does not appear to have a fiscal impact on state or local governments.

CS/HB 4029 takes effect July 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | 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. PRESENT SITUATION:

It was requested that the Committee on Environmental Protection review a number of sections of the Florida Statutes to determine which of those sections have become obsolete, have had their effect, have served their purpose, or have been impliedly or expressly repealed or superseded.

The Committee on Environmental Protection identified a number of such statutory sections and referred that information to the House Committee on Rules and Calendar. With this information, the Committee on Rules and Calendar then proceeded to draft and pass Proposed Committee Bill RC 00-15.

On February 8, 2000, PCB RC 00-15 was before the Committee on Environmental Protection as HB 4029. At that meeting, this bill was amended to: include additional statutory sections that are obsolete or have served their purpose and remove statutory sections which also exist in the Committee on Rules and Calendar's reviser bill, PCB RC 00-33 through 00-43. Lastly, at the February 8, 2000 meeting, HB 4029 was made a committee substitute.

C. EFFECT OF PROPOSED CHANGES:

See "Section-by-Section Analysis".

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 161.163, F.S.

Section 161.163, F.S., states 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: Amends s. 161.56, F.S.

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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: Repeals ss. 258.09 through 258.15, F.S.

Sections 258.09 - 258.15, F.S., relate to the Rauscher Park designation. This designation was required prior to this state's park system and therefore, is not a part of the current park system. As a result, these sections are obsolete and are deleted.

Section 4: Amends s. 212.08(13), F.S.

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: Repeals s. 376.185, F.S.

Section 376.185, F.S., provides that the department 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: Amends s. 376.11(4)(a), F.S.

Section 376.11(4)(a), F.S., states that moneys in the fund are to be disbursed for administrative, personnel and equipment costs. This bill removes an obsolete cite reference.

Section 7: Repeals s. 376.303(1)(e), F.S.

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

Section 8: Amends s. 376.30714(12), F.S.

Section 376.30714(12), F.S. relates to site rehabilitation agreements. This bill updates a statutory reference to s. 376.303, F.S.

Section 9: Repeals subsection (6)(c) and amends subsection (12)(k) of s. 376.3071, F.S.

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.

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: Repeals s. 377.02, F.S.

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Section 377.02, F.S., sets forth the form of the interstate compact which is to be used 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: Repeals s. 378.208(3), F.S.

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: Amends s. 403.085(2) and (4), F.S.

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, delete the date references but keep the existing standards.

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, delete the date references but keep the existing standards.

Section 13: Amends s. 403.086, F.S.

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, delete the date references but keep the existing standards.

Section 14: Amends s. 403.0872, F.S.

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: Repeals s. 403.08851, F.S.

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: Repeals s. 403.1826(6)(b), F.S.

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: Repeals s. 403.221, F.S.

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 therefore outdated and obsolete and therefore, is repealed.

Section 18: Amends s. 403.7046(1), F.S.

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: Amends s. 403.703(10), F.S.

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

Section 20: Amends s. 403.7049, F.S.

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: Amends s. 403.706, F.S.,

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: Amends s. 403.707, F.S.

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: Amends s. 403.708, F.S.

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: Amends s. 403.716, F.S.

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: Amends s. 403.7186, F.S.

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: Amends s. 403.7191, F.S.

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: Amends in part and repeals in part, s. 403.7192, F.S.

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.

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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.

The remaining sections are renumbered accordingly.

Section 28: Repeals s. 403.7199, F.S.

This council no longer convenes and appointments are no longer made. This statutory section is obsolete and is repealed.

Section 29: Repeals s. 403.724(5), F.S.

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: Amends s. 403.7265, F.S.

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: Amends s. 403.767, F.S.

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: Amends s. 403.769, F.S.

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: Repeals chapter 533, F.S.

This act 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 section provides for an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

none

2. Expenditures:

none

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

none

2. Expenditures:

none

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

none

D. FISCAL COMMENTS:

none

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require 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 revenues 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:

A. CONSTITUTIONAL ISSUES:

none

B. RULE-MAKING AUTHORITY:

none

C. OTHER COMMENTS:

none

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 8, 2000, the Committee on Environmental Protection adopted a strike everything amendment and this bill was made a committee substitute. The committee substitute is substantively different from the original bill in the following ways:

- nine statutory sections were taken out of this repealer bill since these sections are already being repealed in the Committee on Rules and Calendar's reviser bill. These nine sections are:

1. s. 259.032(15), F.S., relating to Conservation and Recreation Lands Trust Fund grants to local entities for the FY 1999-2000 only. This section is outdated.
2. s. 369.311, F.S., relating to the policy of the state in regard to the Little Wekiva River System which was statutorily repealed effective July 1, 1999. This section is outdated.
3. s. 369.313, F.S., relating to the pilot projects to restore the Little Wekiva River which was statutorily repealed effective July 1, 1999. This section is outdated.
4. s. 376.11(7), F.S., relating to an appropriation from the Florida Coastal Protection Trust Fund for FY 1998-99 only. This section is outdated.
5. s. 376.30713(5), F.S., relating to a report due on December 31, 1998 in regard to the preapproved advance clean up program. This report has already been completed. This section is outdated.
6. s. 403.0872(11)(a)8., F.S., relating to operation permits for major sources of air pollution and states that no fee shall be paid during 1993 - 1999 with respect to emissions from any unit which is an affected unit under 42 U.S.C. s. 7651c. This section is outdated.
7. s. 403.7095(8) & (9), F.S., relating to the solid waste management grant program which provides for recycling grants for fiscal year 1999-2000 only. This section is outdated.
8. s. 403.718(1), F.S., relating to waste tire fees. The date references are deleted since they are now outdated.
9. s. 403.7191(5), F.S., relating to toxics in packaging. The date references are deleted since they are now outdated.

- three statutory sections were removed from the repealer bill and retained in law, they are:

1. s. 253.033(3)(b), F.S., relates to the Graves tract of land that is to be transferred to the City of North Miami. This section is to be retained into law as there are collateral issues pending concerning this project.
2. s. 376.30711, F.S., relates to the preapproved site rehabilitation program for sites with a priority ranking of 50 points or more. This section is to be retained into law since there are sites currently working under this standard.
3. s. 403.7264, F.S., relates to Amnesty days where small quantities of hazardous waste are collected from homeowners, farmers, schools, state agencies, and small business. This section is to be retained into law since local governments still implement amnesty days as an incentive to purge hazardous waste from the community.

six statutory sections were amended, they are:

1. s. 403.724(5), F.S., relating to financial responsibility for hazardous waste facilities. The text remains in law, however, the date reference is deleted since it is now obsolete.
2. s. 403.7192, F.S., relating to consumer and manufacturer requirements for batteries. The date reference is deleted in subsection (3)(b). In addition, subsections (7)(a), relating to pilot projects, and (8), providing effective dates, are deleted as they are now obsolete. Lastly, subsection (7)(b) is amended to clarify the due date for the annual report and to include the requirement that the organizations are to supply the department a list of the members for whom the association is conducting the pilot program which is currently in law in (7)(a).
3. s. 403.0872(11)(c), F.S., relating to operational permits for major sources of air pollution. The date references are deleted, however, the text remains the same since the EPA has not approved the program to date.
4. s. 403.086(2), F.S., relating to sewage disposal facilities and advanced and secondary waste treatment. The references to "by said date" are deleted since the dates were taken out as being obsolete.
5. s. 403.085(2) and (4), F.S., relating to sanitary sewage disposal units and advance and secondary waste treatments. The text was retained in law and the references to "by said date" are deleted since the dates were taken out as being obsolete.
6. The effective date of this bill was changed to July 1, 2000.

seven additional statutory sections are repealed as they have served their purpose or become outdated, they are:

1. s. 403.706(4)(a), F.S., relating to local government solid waste responsibilities. The text remains in law, however, the date reference is repealed since it has served its purpose.
2. s. 376.303(e), F.S., relating to the establishment of an advisory committee to regulate above ground storage tank systems. These tanks are now governed through a statute, therefore this advisory committee has served its purpose, and it is no longer receiving appointments.
3. s. 376.3071(6)(c), F.S., relating to loans made from the Florida Coastal Protection Trust Fund to the Inland Protection Trust Fund. These loans have already been made and this section is now obsolete.
4. s. 376.3071(12(k)5.c., F.S., is amended to repeal the last sentence relating to the department processing requests for reimbursement for clean up expenses prior to adopting model rules. These rules have already been adopted and this portion is now obsolete.
5. ss. 258.09 - 258.15, F.S., relating to the Rauscher Park, and Royal Palm State Park designations. These parks are now part of federal lands.

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6. s. 378.208(3), F.S., relating to financial responsibility of operators of mines in existence on July 1, 1978. This section is outdated. In addition, s. 378.208(2)(a) is amended to update the new subsection numbers.

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Staff Director:

Christine Hoke, J.D.

Wayne S. Kiger