

By the Council for Ready Infrastructure and
Representatives Dockery, Argenziano and Ross

1 A bill to be entitled
2 An act relating to solid waste management;
3 amending s. 212.20, F.S.; providing for
4 transfer of certain sales tax proceeds to the
5 Ecosystem Management and Restoration Trust
6 Fund, rather than to the Solid Waste Management
7 Trust Fund; providing uses of such funds;
8 amending s. 403.703, F.S.; correcting cross
9 references; amending s. 403.705, F.S.; deleting
10 the requirement that the state solid waste
11 management program be updated every 3 years;
12 requiring the Department of Environmental
13 Protection to obtain certain information from
14 the counties and to prepare periodic reports;
15 deleting an annual reporting requirement;
16 amending s. 403.706, F.S.; requiring counties
17 to implement a recyclable materials recycling
18 program; revising the requirements for the
19 counties' recycling program; deleting certain
20 notice requirements relating to counties
21 providing the opportunity to recycle; modifying
22 provisions relating to the information counties
23 must provide to the department regarding their
24 solid waste management program and recycling
25 activities; amending s. 403.7061, F.S.;
26 correcting a cross reference; amending s.
27 403.707, F.S.; providing requirements for
28 disposal of construction and demolition debris
29 at a solid waste disposal facility; clarifying
30 what is not a solid waste facility; amending s.
31 403.709, F.S.; revising uses of moneys in the

1 Solid Waste Management Trust Fund; providing
2 funding for research and training programs;
3 providing funding to the Department of
4 Agriculture and Consumer Services for mosquito
5 control; providing funding to the Department of
6 Transportation for litter prevention; providing
7 funding for a solid waste grant program,
8 including recycling and waste tire reduction;
9 authorizing the department to recover funds
10 under certain circumstances; authorizing the
11 department to impose liens under certain
12 circumstances; amending s. 403.7095, F.S.;
13 revising requirements and procedures relating
14 to the solid waste management grant program;
15 requiring the department to evaluate and
16 prioritize grant proposals and submit a
17 prioritized list to the Governor and
18 Legislature as part of its annual budget
19 request; providing funding for small county
20 grants; providing funding for waste tire
21 grants; providing funding for competitive and
22 innovative grants; authorizing the department
23 to adopt rules to administer the grant program;
24 amending s. 403.717, F.S.; deleting references
25 and cross references relating to the waste tire
26 grants program; amending s. 403.718, F.S.;
27 eliminating the waste tire account within the
28 Solid Waste Management Trust Fund; creating the
29 Water Quality Improvement and Water Restoration
30 Grant Program, to be administered by the
31 department; specifying eligible grant

1 recipients and criteria for evaluation of grant
2 proposals; requiring the department to evaluate
3 grant proposals and submit a list to the
4 Governor and Legislature as part of its annual
5 budget request; providing for funding of
6 projects to assist financially disadvantaged
7 small local governments; creating a process for
8 department review of projects submitted for
9 funding through the legislative process;
10 authorizing the department to adopt rules to
11 administer the grant program; repealing s.
12 403.7085, F.S., relating to the disposal of
13 animal parts and fats and certain other waste
14 products; repealing s. 403.7165, F.S., relating
15 to the Applications Demonstration Center for
16 Resource Recovery from Solid Organic Materials;
17 repealing s. 403.7175, F.S., relating to an
18 annual transfer from the General Revenue Fund;
19 repealing s. 403.719, F.S., relating to the
20 grant program for the collection, removal,
21 processing, and recycling of waste tires;
22 providing effective dates.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Effective July 1, 2003, subsection (6) of
27 section 212.20, Florida Statutes, is amended to read:

28 212.20 Funds collected, disposition; additional powers
29 of department; operational expense; refund of taxes
30 adjudicated unconstitutionally collected.--
31

1 (6) Distribution of all proceeds under this chapter
2 and s. 202.18(1)(b) and (2)(b) shall be as follows:
3 (a) Proceeds from the convention development taxes
4 authorized under s. 212.0305 shall be reallocated to the
5 Convention Development Tax Clearing Trust Fund.
6 (b) Proceeds from discretionary sales surtaxes imposed
7 pursuant to ss. 212.054 and 212.055 shall be reallocated to
8 the Discretionary Sales Surtax Clearing Trust Fund.
9 (c) Proceeds from the fees imposed under ss.
10 212.05(1)(i)3. and 212.18(3) shall remain with the General
11 Revenue Fund.
12 (d) The proceeds of all other taxes and fees imposed
13 pursuant to this chapter or remitted pursuant to s.
14 202.18(1)(b) and (2)(b) shall be distributed as follows:
15 1. In any fiscal year, the greater of \$500 million,
16 minus an amount equal to 4.6 percent of the proceeds of the
17 taxes collected pursuant to chapter 201, or 5 percent of all
18 other taxes and fees imposed pursuant to this chapter or
19 remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be
20 deposited in monthly installments into the General Revenue
21 Fund.
22 2. Two-tenths of one percent shall be transferred to
23 the Ecosystem Management and Restoration Trust Fund to be used
24 for water quality improvement and water restoration projects
25 ~~Solid Waste Management Trust Fund.~~
26 3. After the distribution under subparagraphs 1. and
27 2., 9.653 percent of the amount remitted by a sales tax dealer
28 located within a participating county pursuant to s. 218.61
29 shall be transferred into the Local Government Half-cent Sales
30 Tax Clearing Trust Fund.
31

1 4. After the distribution under subparagraphs 1., 2.,
2 and 3., 0.065 percent shall be transferred to the Local
3 Government Half-cent Sales Tax Clearing Trust Fund and
4 distributed pursuant to s. 218.65.

5 5. For proceeds received after July 1, 2000, and after
6 the distributions under subparagraphs 1., 2., 3., and 4., 2.25
7 percent of the available proceeds pursuant to this paragraph
8 shall be transferred monthly to the Revenue Sharing Trust Fund
9 for Counties pursuant to s. 218.215.

10 6. For proceeds received after July 1, 2000, and after
11 the distributions under subparagraphs 1., 2., 3., and 4.,
12 1.0715 percent of the available proceeds pursuant to this
13 paragraph shall be transferred monthly to the Revenue Sharing
14 Trust Fund for Municipalities pursuant to s. 218.215. If the
15 total revenue to be distributed pursuant to this subparagraph
16 is at least as great as the amount due from the Revenue
17 Sharing Trust Fund for Municipalities and the Municipal
18 Financial Assistance Trust Fund in state fiscal year
19 1999-2000, no municipality shall receive less than the amount
20 due from the Revenue Sharing Trust Fund for Municipalities and
21 the Municipal Financial Assistance Trust Fund in state fiscal
22 year 1999-2000. If the total proceeds to be distributed are
23 less than the amount received in combination from the Revenue
24 Sharing Trust Fund for Municipalities and the Municipal
25 Financial Assistance Trust Fund in state fiscal year
26 1999-2000, each municipality shall receive an amount
27 proportionate to the amount it was due in state fiscal year
28 1999-2000.

29 7. Of the remaining proceeds:

30 a. Beginning July 1, 2000, and in each fiscal year
31 thereafter, the sum of \$29,915,500 shall be divided into as

1 many equal parts as there are counties in the state, and one
2 part shall be distributed to each county. The distribution
3 among the several counties shall begin each fiscal year on or
4 before January 5th and shall continue monthly for a total of 4
5 months. If a local or special law required that any moneys
6 accruing to a county in fiscal year 1999-2000 under the
7 then-existing provisions of s. 550.135 be paid directly to the
8 district school board, special district, or a municipal
9 government, such payment shall continue until such time that
10 the local or special law is amended or repealed. The state
11 covenants with holders of bonds or other instruments of
12 indebtedness issued by local governments, special districts,
13 or district school boards prior to July 1, 2000, that it is
14 not the intent of this subparagraph to adversely affect the
15 rights of those holders or relieve local governments, special
16 districts, or district school boards of the duty to meet their
17 obligations as a result of previous pledges or assignments or
18 trusts entered into which obligated funds received from the
19 distribution to county governments under then-existing s.
20 550.135. This distribution specifically is in lieu of funds
21 distributed under s. 550.135 prior to July 1, 2000.

22 b. The department shall distribute \$166,667 monthly
23 pursuant to s. 288.1162 to each applicant that has been
24 certified as a "facility for a new professional sports
25 franchise" or a "facility for a retained professional sports
26 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be
27 distributed monthly by the department to each applicant that
28 has been certified as a "facility for a retained spring
29 training franchise" pursuant to s. 288.1162; however, not more
30 than \$208,335 may be distributed monthly in the aggregate to
31 all certified facilities for a retained spring training

1 franchise. Distributions shall begin 60 days following such
2 certification and shall continue for not more than 30 years.
3 Nothing contained in this paragraph shall be construed to
4 allow an applicant certified pursuant to s. 288.1162 to
5 receive more in distributions than actually expended by the
6 applicant for the public purposes provided for in s.
7 288.1162(6). However, a certified applicant is entitled to
8 receive distributions up to the maximum amount allowable and
9 undistributed under this section for additional renovations
10 and improvements to the facility for the franchise without
11 additional certification.

12 c. Beginning 30 days after notice by the Office of
13 Tourism, Trade, and Economic Development to the Department of
14 Revenue that an applicant has been certified as the
15 professional golf hall of fame pursuant to s. 288.1168 and is
16 open to the public, \$166,667 shall be distributed monthly, for
17 up to 300 months, to the applicant.

18 d. Beginning 30 days after notice by the Office of
19 Tourism, Trade, and Economic Development to the Department of
20 Revenue that the applicant has been certified as the
21 International Game Fish Association World Center facility
22 pursuant to s. 288.1169, and the facility is open to the
23 public, \$83,333 shall be distributed monthly, for up to 168
24 months, to the applicant. This distribution is subject to
25 reduction pursuant to s. 288.1169. A lump sum payment of
26 \$999,996 shall be made, after certification and before July 1,
27 2000.

28 8. All other proceeds shall remain with the General
29 Revenue Fund.

30 Section 2. Subsections (2) and (3) of section 403.703,
31 Florida Statutes, are amended to read:

1 403.703 Definitions.--As used in this act, unless the
2 context clearly indicates otherwise, the term:

3 (2) "County," or any like term, means a political
4 subdivision of the state established pursuant to s. 1, Art.
5 VIII of the State Constitution and when s. 403.706(19)~~(20)~~
6 applies, means a special district or other entity.

7 (3) "Municipality," or any like term, means a
8 municipality created pursuant to general or special law
9 authorized or recognized pursuant to s. 2 or s. 6, Art. VIII
10 of the State Constitution and when s. 403.706(19)~~(20)~~applies,
11 means a special district or other entity.

12 Section 3. Section 403.705, Florida Statutes, is
13 amended to read:

14 403.705 State solid waste management program.--

15 (1) The state solid waste management program shall:

16 (a) Provide guidelines for the orderly ~~collection,~~
17 ~~transportation,~~storage, separation, processing, recovery,
18 recycling, and disposal of solid waste throughout the state;

19 (b) Encourage coordinated local activity for solid
20 waste management within a common geographical area;

21 (c) Investigate the present status of solid waste
22 management in the state with positive proposals for local
23 action to correct deficiencies in present solid waste
24 management processes;

25 (d) Provide planning, technical, and financial
26 assistance to local governments and state agencies for
27 reduction, recycling, reuse, and processing of solid waste and
28 for safe and environmentally sound solid waste management and
29 disposal;

30
31

1 (e) Assist in the development of solid waste reduction
2 and recycling programs to properly manage solid waste and
3 conserve resources; and

4 (f) Provide for the education of the general public
5 and the training of solid waste management professionals to
6 reduce the production of solid waste, to ensure proper
7 processing and disposal of solid waste, and to encourage
8 recycling and solid waste reduction.

9 ~~(2) The state solid waste management program shall be~~
10 ~~updated at least once every 3 years.~~

11 (2)~~(3)~~ The state solid waste management program shall
12 include, at a minimum:

13 (a) Procedures and requirements to ensure cooperative
14 efforts in solid waste management by counties and
15 municipalities and groups of counties and municipalities where
16 appropriate.

17 (b) Provisions for the continuation of existing
18 effective regional resource recovery, recycling, and solid
19 waste management facilities and programs.

20 (c) Planning guidelines and technical assistance to
21 counties and municipalities to aid in meeting the municipal
22 solid waste reduction goals established in s. 403.706(4).

23 (d) Planning guidelines and technical assistance to
24 counties and municipalities to develop and implement recycling
25 programs.

26 (e) Technical assistance to counties and
27 municipalities in determining the full cost for solid waste
28 management pursuant to ~~as required in~~ s. 403.7049(1).

29 (f) Planning guidelines and technical assistance to
30 counties and municipalities to develop and implement programs
31 for alternative disposal or processing or recycling of the

1 solid wastes prohibited from disposal in landfills under s.
2 403.708(13) and for special wastes.

3 (g) A public education program, to be developed in
4 cooperation with the Department of Education, local
5 governments, other state agencies, and business and industry
6 organizations, to inform the public of the need for and the
7 benefits of recycling of solid waste and reducing the amounts
8 of solid and hazardous waste generated and disposed of in the
9 state. The public education program shall be implemented
10 through public workshops and through the use of brochures,
11 reports, public service announcements, and other materials.

12 (3) The department shall periodically seek information
13 from counties to evaluate and report on the success in meeting
14 the solid waste reduction goal.

15 ~~(4) The department shall prepare by December 1 each~~
16 ~~year a report on the status of solid waste management efforts~~
17 ~~in the state. The report shall include, at a minimum:~~

18 ~~(a) A comprehensive analysis, to be updated in each~~
19 ~~report, of solid waste generation and disposal in the state~~
20 ~~projected for the 20-year period beginning on October 1, 1988.~~

21 ~~(b) The total amounts of solid waste generated,~~
22 ~~materials recycled, and disposed of, and the methods of solid~~
23 ~~waste recycling and disposal used during the calendar year~~
24 ~~prior to the year in which the report is published.~~

25 ~~(c) An evaluation of the development and~~
26 ~~implementation of local solid waste management programs and~~
27 ~~county and municipal recycling programs.~~

28 ~~(d) An evaluation of the success of each county or~~
29 ~~group of counties in meeting the municipal solid waste~~
30 ~~reduction goal established in s. 403.706(4).~~

31

1 ~~(e) Recommendations concerning existing and potential~~
2 ~~programs for solid waste reduction and recycling that would be~~
3 ~~appropriate for local governments and state agencies to~~
4 ~~implement to meet the requirements of this act.~~

5 ~~(f) An evaluation of the markets for recycled~~
6 ~~materials and the success of state, local, and private~~
7 ~~industry efforts to enhance the markets for such materials.~~

8 ~~(g) Recommendations to the Governor and the~~
9 ~~Legislature to improve the management and recycling of solid~~
10 ~~waste in this state.~~

11 ~~(5) The department shall develop descriptive~~
12 ~~literature to inform local governments of the solid waste~~
13 ~~management responsibilities and opportunities described in~~
14 ~~this act.~~

15 Section 4. Section 403.706, Florida Statutes, is
16 amended to read:

17 403.706 Local government solid waste
18 responsibilities.--

19 (1) The governing body of a county has the
20 responsibility and power to provide for the operation of solid
21 waste disposal facilities to meet the needs of all
22 incorporated and unincorporated areas of the county. Unless
23 otherwise approved by an interlocal agreement or special act,
24 municipalities may not operate solid waste disposal facilities
25 unless a municipality demonstrates by a preponderance of the
26 evidence that the use of a county designated facility, when
27 compared to alternatives proposed by the municipality, places
28 a significantly higher and disproportionate financial burden
29 on the citizens of the municipality when compared to the
30 financial burden placed on persons residing within the county
31 but outside of the municipality. However, a municipality may

1 construct and operate a resource recovery facility and related
2 onsite solid waste disposal facilities without an interlocal
3 agreement with the county if the municipality can demonstrate
4 by a preponderance of the evidence that the operation of such
5 facility will not significantly impair financial commitments
6 made by the county with respect to solid waste management
7 services and facilities or result in significantly increased
8 solid waste management costs to the remaining persons residing
9 within the county but not served by the municipality's
10 facility. This section shall not prevent a municipality from
11 continuing to operate or use an existing disposal facility
12 permitted on or prior to October 1, 1988. Any municipality
13 which establishes a solid waste disposal facility under this
14 subsection and subsequently abandons such facility shall be
15 responsible for the payment of any capital expansion necessary
16 to accommodate the municipality's solid waste for the
17 remaining projected useful life of the county disposal
18 facility. Pursuant to this section and notwithstanding any
19 other provision of this chapter, counties shall have the power
20 and authority to adopt ordinances governing the disposal of
21 solid waste generated outside of the county at the county's
22 solid waste disposal facility. In accordance with this
23 section, municipalities are responsible for collecting and
24 transporting solid waste from their jurisdictions to a solid
25 waste disposal facility operated by a county or operated under
26 a contract with a county. Counties may charge reasonable fees
27 for the handling and disposal of solid waste at their
28 facilities. The fees charged to municipalities at a solid
29 waste management facility specified by the county shall not be
30 greater than the fees charged to other users of the facility
31 except as provided in s. 403.7049(5). Solid waste management

1 fees collected on a countywide basis shall be used to fund
2 solid waste management services provided countywide.

3 (2)(a) Each county shall implement ~~initiate~~ a
4 recyclable materials recycling program. Counties and
5 municipalities are encouraged to form cooperative arrangements
6 for implementing recycling programs. ~~The following~~
7 ~~requirements shall apply:~~

8 (a) ~~Construction and demolition debris must be~~
9 ~~separated from the solid waste stream and segregated in~~
10 ~~separate locations at a solid waste disposal facility or other~~
11 ~~permitted site.~~

12 (b) ~~At a minimum,~~Such programs shall be designed to
13 recover a significant portion of at least four of the
14 following materials ~~majority of the newspaper, aluminum cans,~~
15 ~~steel cans, glass, and plastic bottles~~ from the solid waste
16 stream prior to final disposal at a solid waste disposal
17 facility and to offer these materials for recycling:
18 newspaper, aluminum cans, steel cans, glass, plastic bottles,
19 cardboard, office paper, and yard trash. Local governments
20 which operate permitted waste-to-energy facilities may
21 retrieve ferrous and nonferrous metal ~~steel cans~~ as a
22 byproduct of combustion.

23 (c) Local governments are encouraged to separate all
24 plastics, metal, and all grades of paper for recycling prior
25 to final disposal and are further encouraged to recycle yard
26 trash and other mechanically treated solid waste into compost
27 available for agricultural and other acceptable uses.

28 (d) Each county is encouraged to ~~shall~~ consider plans
29 for composting or mulching of organic materials that would
30 otherwise be disposed of in a landfill. The composting or
31

1 mulching plans are encouraged to ~~must~~ address partnership with
2 the private sector.

3 (3) Each county shall ensure, to the maximum extent
4 possible, that municipalities within its boundaries
5 participate in the preparation and implementation of recycling
6 and solid waste management programs through interlocal
7 agreements pursuant to s. 163.01 or other means provided by
8 law. Nothing in a county's solid waste management or recycling
9 program shall affect the authority of a municipality to
10 franchise or otherwise provide for the collection of solid
11 waste generated within the boundaries of the municipality.

12 (4)(a) A county's solid waste management and recycling
13 programs shall be designed to provide for sufficient reduction
14 of the amount of solid waste generated within the county and
15 the municipalities within its boundaries in order to meet
16 goals for the reduction of municipal solid waste prior to the
17 final disposal or the incineration of such waste at a solid
18 waste disposal facility. The goals shall provide, at a
19 minimum, that the amount of municipal solid waste that would
20 be disposed of within the county and the municipalities within
21 its boundaries is reduced by at least 30 percent. ~~In~~
22 ~~determining whether the municipal solid waste reduction goal~~
23 ~~established by this subsection has been achieved, no more than~~
24 ~~one-half of the goal may be met with yard trash, white goods,~~
25 ~~construction and demolition debris, and tires that are removed~~
26 ~~from the total amount of municipal solid waste. However, if a~~
27 ~~county that is a special district created by chapter 67-764,~~
28 ~~Laws of Florida, demonstrates that yard trash, construction~~
29 ~~and demolition debris, white goods, and waste tires comprise~~
30 ~~more than 50 percent of the municipal solid waste generated in~~
31 ~~the county and municipalities within its boundaries, the~~

1 ~~county may meet the reduction goal established by this~~
2 ~~subsection by reducing the Class I municipal solid waste~~
3 ~~generated in the county and municipalities within its~~
4 ~~boundaries at a rate equal to the average rate Class I~~
5 ~~municipal solid waste is reduced in the 20 most populous~~
6 ~~counties, as determined by the department for the previous~~
7 ~~reporting period. As used in this subsection, "Class I~~
8 ~~municipal solid waste" means municipal solid waste other than~~
9 ~~yard trash, construction and demolition debris, white goods,~~
10 ~~and waste tires.~~

11 ~~(b) Notwithstanding the limitation on the waste~~
12 ~~reduction goal in paragraph (a),~~A county may receive credit
13 for one-half of the goal for waste reduction from ~~one or a~~
14 ~~combination of the following:~~

15 ~~1. The use of pelletized paper waste as a supplemental~~
16 ~~fuel in permitted boilers other than waste-to-energy~~
17 ~~facilities.~~

18 ~~2.~~ the use of yard trash, or other clean wood waste or
19 paper waste, in innovative programs including, but not limited
20 to, programs that produce alternative clean-burning fuels such
21 as ethanol or that provide for the conversion of yard trash or
22 other clean wood waste or paper waste to clean-burning fuel
23 for the production of energy for use at facilities other than
24 a waste-to-energy facility as defined in s. 403.7061. The
25 provisions of this paragraph ~~subparagraph~~ only apply only if a
26 county can demonstrate that:

27 ~~1.a.~~ The county has implemented a yard trash mulching
28 or composting program, and

29 ~~2.b.~~ As part of the program, compost and mulch made
30 from yard trash is available to the general public and in use
31 at county-owned or maintained and municipally owned or

1 maintained facilities in the county and state agencies
2 operating in the county as required by this section.

3 ~~(c) No facility, solely by virtue of the fact that it~~
4 ~~uses processed yard trash or clean wood or paper waste as a~~
5 ~~fuel source, shall be deemed to be a solid waste disposal~~
6 ~~facility.~~

7 ~~(c)~~(d) A county with a population of 100,000 ~~75,000~~ or
8 less may provide its residents with the opportunity to recycle
9 in lieu of achieving the goal set forth in paragraph (a). For
10 the purposes of this subsection, the "opportunity to recycle"
11 means that the county:

12 1.a. Provides a system for separating and collecting
13 recyclable materials prior to disposal that is located at a
14 solid waste management facility or solid waste disposal area;
15 or

16 b. Provides a system of places within the county for
17 collection of source-separated recyclable materials.

18 2. Provides a public education and promotion program
19 that is conducted to inform its residents of the opportunity
20 to recycle, encourages source separation of recyclable
21 materials, and promotes the benefits of reducing, reusing,
22 recycling, and composting materials.

23
24 ~~If a county with a population of 75,000 or less decides to~~
25 ~~provide the opportunity to recycle in lieu of achieving the~~
26 ~~goal set forth in paragraph (a), the county shall notify the~~
27 ~~department by October 1 of such decision, and shall provide~~
28 ~~the department with a description of how the county intends to~~
29 ~~provide the opportunity to recycle. The department shall take~~
30 ~~into consideration the description provided by the county in~~
31

1 ~~determining the amount of grant moneys to be provided to the~~
2 ~~county pursuant to s. 403.7095.~~

3 (5) As used in this section, "municipal solid waste"
4 includes any solid waste, except for sludge, resulting from
5 the operation of residential, commercial, governmental, or
6 institutional establishments that would normally be collected,
7 processed, and disposed of through a public or private solid
8 waste management service. The term includes yard trash but
9 does not include solid waste from industrial, mining, or
10 agricultural operations.

11 (6) The department may reduce or modify the municipal
12 solid waste reduction goal that a county is required to
13 achieve pursuant to subsection (4) if the county demonstrates
14 to the department that:

15 (a) The achievement of the goal set forth in
16 subsection (4) would have an adverse effect on the financial
17 obligations of a county that are directly related to a
18 waste-to-energy facility owned or operated by or on behalf of
19 the county; and

20 (b) The county cannot remove normally combustible
21 materials from solid waste that is to be processed at a
22 waste-to-energy facility because of the need to maintain a
23 sufficient amount of solid waste to ensure the financial
24 viability of the facility.

25
26 The goal shall not be waived entirely and may only be reduced
27 or modified to the extent necessary to alleviate the adverse
28 effects of achieving the goal on the financial viability of a
29 county's waste-to-energy facility. Nothing in this subsection
30 shall exempt a county from developing and implementing a
31 recycling program pursuant to this act.

1 (7) In order to assess the progress in meeting the
2 goal established in subsection (4), each county shall, by
3 November ~~October~~ each year, provide information ~~report~~ to the
4 department its annual solid waste management program and
5 recycling activities. The information ~~report~~ by the county
6 must include:

7 ~~(a) A description of its public education program on~~
8 ~~recycling;~~

9 (a)~~(b)~~ The amount of municipal solid waste disposed of
10 at solid waste disposal facilities, by type of waste such as
11 yard trash, white goods, clean debris, tires, and unseparated
12 solid waste;

13 (b)~~(c)~~ The amount and type of materials from the
14 municipal solid waste stream that were recycled; and

15 (c)~~(d)~~ The percentage of the population participating
16 in various types of recycling activities instituted; and

17 ~~(e) The percent reduction each year in municipal solid~~
18 ~~waste disposed of at solid waste disposal facilities;~~

19 ~~(f) A description of the recycling activities~~
20 ~~attempted, their success rates, the perceived reasons for~~
21 ~~failure or success, and the recycling activities which are~~
22 ~~ongoing and most successful; and~~

23 ~~(g) A description of the progress made toward~~
24 ~~developing a composting program for organic materials such as~~
25 ~~yard waste, food waste, and paper waste that would otherwise~~
26 ~~be disposed of in a landfill.~~

27 (8) A county or municipality may enter into a written
28 agreement with other persons, including persons transporting
29 solid waste on October 1, 1988, to undertake to fulfill some
30 or all of the county's or municipality's responsibilities
31 under this section.

1 (9) In the development and implementation of a
2 curbside recyclable materials collection program, a county or
3 municipality shall enter into negotiations with a franchisee
4 who is operating to exclusively collect solid waste within a
5 service area of a county or municipality to undertake curbside
6 recyclable materials collection responsibilities for a county
7 or municipality. If the county or municipality and such
8 franchisee fail to reach an agreement within 60 days from the
9 initiation of such negotiations, the county or municipality
10 may solicit proposals from other persons to undertake curbside
11 recyclable materials collection responsibilities for the
12 county or municipality as it may require. Upon the
13 determination of the lowest responsible proposal, the county
14 or municipality may undertake, or enter into a written
15 agreement with the person who submitted the lowest responsible
16 proposal to undertake, the curbside recyclable materials
17 collection responsibilities for the county or municipality,
18 notwithstanding the exclusivity of such franchise agreement.

19 (10) In developing and implementing recycling
20 programs, counties and municipalities shall give consideration
21 to the collection, marketing, and disposition of recyclable
22 materials by persons engaged in the business of recycling ~~on~~
23 ~~October 1, 1988~~, whether or not the persons are ~~were~~ operating
24 for profit. Counties and municipalities are encouraged to use
25 for-profit and nonprofit organizations in fulfilling their
26 responsibilities under this act.

27 (11) A county and the municipalities within the
28 county's boundaries may jointly develop a recycling program,
29 provided that the county and each such municipality must enter
30 into a written agreement to jointly develop a recycling
31 program. If a municipality does not participate in jointly

1 developing a recycling program with the county within which it
2 is located, the county may require the municipality to provide
3 information on recycling efforts undertaken within the
4 boundaries of the municipality in order to determine whether
5 the goal for municipal solid waste reduction is being
6 achieved.

7 (12) It is the policy of the state that a county and
8 its municipalities may jointly determine, through an
9 interlocal agreement pursuant to s. 163.01 or by requesting
10 the passage of special legislation, which local governmental
11 agency shall administer a solid waste management or recycling
12 program.

13 (13) The county shall provide written notice to all
14 municipalities within the county when recycling program
15 development begins and shall provide periodic written progress
16 reports to the municipalities concerning the preparation of
17 the recycling program.

18 (14) Nothing in this act shall be construed to prevent
19 the governing body of any county or municipality from
20 providing by ordinance or regulation for solid waste
21 management requirements which are stricter or more extensive
22 than those imposed by the state solid waste management program
23 and rules, regulations, and orders issued thereunder.

24 (15) Nothing in this act or in any rule adopted by any
25 agency shall be construed to require any county or
26 municipality to participate in any regional solid waste
27 management or regional resource recovery program until the
28 governing body of such county or municipality has determined
29 that participation in such a program is economically feasible
30 for that county or municipality. Nothing in this act or in any
31 special or local act or in any rule adopted by any agency

1 shall be construed to limit the authority of a municipality to
2 regulate the disposal of solid waste within its boundaries or
3 generated within its boundaries so long as a facility for any
4 such disposal has been approved by the department, unless the
5 municipality is included within a solid waste management
6 program created by interlocal agreement or special or local
7 act. If bonds had been issued to finance a resource recovery
8 or management program or a solid waste management program in
9 reliance on state law granting to a county the responsibility
10 for the resource recovery or management program or a solid
11 waste management program, nothing herein shall permit any
12 governmental agency to withdraw from said program if said
13 agency's participation is necessary for the financial
14 feasibility of the project, so long as said bonds are
15 outstanding.

16 (16) Nothing in this chapter or in any rule adopted by
17 any state agency hereunder shall require any person to
18 subscribe to any private solid waste collection service.

19 (17) To effect the purposes of this part, counties and
20 municipalities are authorized, in addition to other powers
21 granted pursuant to this part:

22 (a) To contract with persons to provide resource
23 recovery services or operate resource recovery facilities on
24 behalf of the county or municipality.

25 (b) To indemnify persons providing resource recovery
26 services or operating resource recovery facilities for
27 liabilities or claims arising out of the provision or
28 operation of such services or facilities that are not the
29 result of the sole negligence of the persons providing such
30 services or operating such facilities.

31

1 (c) To waive sovereign immunity and immunity from suit
2 in federal court by vote of the governing body of the county
3 or municipality to the extent necessary to carry out the
4 authority granted in paragraphs (a) and (b), notwithstanding
5 the limitations prescribed in s. 768.28.

6 (d) To grant a solid waste fee waiver to nonprofit
7 organizations that are engaged in the collection of donated
8 goods for charitable purposes and that have a recycling or
9 reuse rate of 50 percent or better.

10 (18) Each operator of a solid waste management
11 facility owned or operated by or on behalf of a county or
12 municipality shall weigh all solid waste when it is received.
13 The scale used to measure the solid waste shall conform to the
14 requirements of chapter 531 and any rules promulgated
15 thereunder.

16 ~~(19) A county listed in chapter 17-7, Florida~~
17 ~~Administrative Code, which was required to submit to the~~
18 ~~department a local resource recovery and management program~~
19 ~~shall revise its existing local resource recovery and~~
20 ~~management program if necessary to meet the requirements of~~
21 ~~this act.~~

22 (19)~~(20)~~ In the event the power to manage solid waste
23 has been granted to a special district or other entity by
24 special act or interlocal agreement, any duty or
25 responsibility or penalty imposed under this part on a county
26 or municipality shall apply to such special district or other
27 entity to the extent of the grant of such duty or
28 responsibility or imposition of such penalty. To the same
29 extent, such special district or other entity shall be
30 eligible for grants or other benefits provided pursuant to
31 this part.

1 (20)~~(21)~~ In addition to any other penalties provided
2 by law, a local government that does not comply with the
3 requirements of subsections (2) and (4) shall not be eligible
4 for grants from the Solid Waste Management Trust Fund, and the
5 department may notify the State Treasurer to withhold payment
6 of all or a portion of funds payable to the local government
7 by the department from the General Revenue Fund or by the
8 department from any other state fund, to the extent not
9 pledged to retire bonded indebtedness, unless the local
10 government demonstrates that good faith efforts to meet the
11 requirements of subsections (2) and (4) have been made or that
12 the funds are being or will be used to finance the correction
13 of a pollution control problem that spans jurisdictional
14 boundaries.

15 (21)~~(22)~~ Local governments are authorized to enact
16 ordinances that require and direct all residential properties
17 and industrial, commercial, and institutional establishments
18 as defined by the local government to establish programs for
19 the separation of recyclable materials designated by the local
20 government, which recyclable materials are specifically
21 intended for purposes of recycling and for which a market
22 exists, and to provide for their collection. Such ordinances
23 may include, but are not limited to, provisions that prohibit
24 any person from knowingly disposing of recyclable materials
25 designated by the local government and that ensure the
26 collection of recovered materials as necessary to protect
27 public health and safety.

28 (22)~~(23)~~ Nothing in this act shall limit the authority
29 of the state or any local government to regulate the
30 collection, transportation, processing, or handling of
31

1 recovered materials or solid waste in order to protect the
2 public health, safety, and welfare.

3 Section 5. Paragraph (c) of subsection (3) of section
4 403.7061, Florida Statutes, is amended to read:

5 403.7061 Requirements for review of new
6 waste-to-energy facility capacity by the Department of
7 Environmental Protection.--

8 (3) An applicant must provide reasonable assurance
9 that the construction of a new waste-to-energy facility or the
10 expansion of an existing waste-to-energy facility will comply
11 with the following subsections:

12 (c) The county in which the facility is located will
13 achieve the 30-percent waste reduction goal set forth in s.
14 403.706(4) by the time the facility begins operation. For the
15 purposes of this section, the provisions of s.
16 403.706(4)~~(c)(d)~~ for counties with populations of 75,000 or
17 less do not apply.

18 Section 6. Subsections (15) and (16) are added to
19 section 403.707, Florida Statutes, to read:

20 403.707 Permits.--

21 (15) Construction and demolition debris must be
22 separated from the solid waste stream and segregated in
23 separate locations at a solid waste disposal facility or other
24 permitted site.

25 (16) No facility, solely by virtue of the fact that it
26 uses processed yard trash or clean wood or paper waste as a
27 fuel source, shall be considered to be a solid waste disposal
28 facility.

29 Section 7. Section 403.709, Florida Statutes, is
30 amended to read:

31 (Substantial rewording of section. See

1 s. 403.709, F.S., for present text.)
2 403.709 Solid Waste Management Trust Fund; use of
3 waste tire fees.--There is created the Solid Waste Management
4 Trust Fund, to be administered by the department. From the
5 annual revenues deposited in the trust fund, unless otherwise
6 specified in the General Appropriations Act:
7 (1) Up to 40 percent shall be used for funding solid
8 waste activities of the department and other state agencies,
9 such as providing technical assistance to local governments
10 and the private sector, performing solid waste regulatory and
11 enforcement functions, preparing solid waste documents, and
12 implementing solid waste education programs.
13 (2) Up to 4.5 percent shall be used for funding
14 research and training programs relating to solid waste
15 management through the Center for Solid and Hazardous Waste
16 Management and other organizations which can reasonably
17 demonstrate the capability to carry out such projects.
18 (3) Up to 11 percent shall be used for funding to
19 supplement any other funds provided to the Department of
20 Agriculture and Consumer Services for mosquito control. This
21 distribution shall be annually transferred to the General
22 Inspection Trust Fund in the Department of Agriculture and
23 Consumer Services to be used for mosquito control, especially
24 control of West Nile Virus.
25 (4) Up to 4.5 percent shall be used for funding to the
26 Department of Transportation for litter prevention and control
27 programs coordinated by Keep Florida Beautiful, Inc.
28 (5) A minimum of 40 percent shall be used for funding
29 a competitive and innovative grant program pursuant to s.
30 403.7095 for activities relating to recycling and reducing the
31

1 volume of municipal solid waste, including waste tires
2 requiring final disposal.

3 (6) The department shall recover to the use of the
4 fund from the site owner or the person responsible for the
5 accumulation of tires at the site, jointly and severally, all
6 sums expended from the fund pursuant to this section to manage
7 tires at an illegal waste tire site, except that the
8 department may decline to pursue such recovery if it finds the
9 amount involved too small or the likelihood of recovery too
10 uncertain. If a court determines that the owner is unable or
11 unwilling to comply with the rules adopted pursuant to this
12 section or s. 403.717, the court may authorize the department
13 to take possession and control of the waste tire site in order
14 to protect the health, safety, and welfare of the community
15 and the environment.

16 (7) The department may impose a lien on the real
17 property on which the waste tire site is located and the waste
18 tires equal to the estimated cost to bring the tire site into
19 compliance, including attorney's fees and court costs. Any
20 owner whose property has such a lien imposed may release her
21 or his property from any lien claimed under this subsection by
22 filing with the clerk of the circuit court a cash or surety
23 bond, payable to the department in the amount of the estimated
24 cost of bringing the tire site into compliance with department
25 rules, including attorney's fees and court costs, or the value
26 of the property after the abatement action is complete,
27 whichever is less.

28 (8) This section does not limit the use of other
29 remedies available to the department.

30 Section 8. Section 403.7095, Florida Statutes, is
31 amended to read:

1 (Substantial rewording of section. See
2 s. 403.7095, F.S., for present text.)
3 403.7095 Solid waste management grant program.--
4 (1) The department shall develop a competitive and
5 innovative grant program for counties, municipalities, special
6 districts, and nonprofit organizations that have legal
7 responsibility for the provision of solid waste management
8 services that:

9 (a) Demonstrate technologies or processes that are not
10 in common use in Florida, that represent a novel application
11 of an existing technology or process, or that overcome
12 obstacles to recycling and waste reduction in new or
13 innovative ways;

14 (b) Demonstrate innovative processes to collect and
15 recycle or reduce materials targeted by the department and the
16 recycling industry; or

17 (c) Demonstrate effective solutions to solving solid
18 waste problems resulting from waste tires, particularly in the
19 areas of enforcement and abatement of illegal tire dumping and
20 activities to promote market development of waste tire
21 products.

22
23 Because the Legislature recognizes that input from the
24 recycling industry is essential to the success of this grant
25 program, the department shall cooperate with private-sector
26 entities to develop a process and define specific criteria for
27 allowing their participation with grant recipients.

28 (2) The department shall evaluate and prioritize the
29 annual grant proposals and present the annual prioritized list
30 of projects to be funded to the Governor and the Legislature
31 as part of its annual budget request submitted pursuant to

1 chapter 216, beginning with fiscal year 2003-2004. Potential
2 grant recipients are encouraged to demonstrate local support
3 for grant proposals by the commitment of cash or in-kind
4 matching funds.

5 (3) The department shall develop a consolidated grant
6 program for small counties having populations fewer than
7 100,000, with grants to be distributed equally among eligible
8 counties. Programs to be supported with the small-county
9 consolidated grants include general solid waste management,
10 litter prevention and control, and recycling and education
11 programs.

12 (4) The department shall develop a waste tire grant
13 program making grants available to all counties. The
14 department shall ensure that at least 25 percent of the
15 funding available for waste tire grants is distributed equally
16 to each county having a population fewer than 100,000.

17 (5) From the funds made available pursuant to s.
18 403.709(5) for the grant program created by this section, the
19 following distributions shall be made:

20 (a) Up to 15 percent for the program described in
21 subsection (1);

22 (b) Up to 35 percent for the program described in
23 subsection (3); and

24 (c) Up to 50 percent for the program described in
25 subsection (4).

26 (6) The department may adopt rules necessary to
27 administer this section, including, but not limited to, rules
28 governing timeframes for submitting grant applications,
29 criteria for prioritizing, matching criteria, maximum grant
30 amounts, and allocation of appropriated funds based upon
31 project and applicant size.

1 Section 9. Subsections (1) and (4) of section 403.717,
2 Florida Statutes, are amended to read:

3 403.717 Waste tire and lead-acid battery
4 requirements.--

5 (1) For purposes of this section and ss. 403.718 and
6 ~~403.7185, and 403.719~~:

7 (a) "Department" means the Department of Environmental
8 Protection.

9 (b) "Motor vehicle" means an automobile, motorcycle,
10 truck, trailer, semitrailer, truck tractor and semitrailer
11 combination, or any other vehicle operated in this state, used
12 to transport persons or property and propelled by power other
13 than muscular power, but the term does not include traction
14 engines, road rollers, such vehicles as run only upon a track,
15 bicycles, mopeds, or farm tractors and trailers.

16 (c) "Tire" means a continuous solid or pneumatic
17 rubber covering encircling the wheel of a motor vehicle.

18 (d) "Waste tire" means a tire that has been removed
19 from a motor vehicle and has not been retreaded or regrooved.
20 "Waste tire" includes, but is not limited to, used tires and
21 processed tires.

22 (e) "Waste tire collection center" means a site where
23 waste tires are collected from the public prior to being
24 offered for recycling and where fewer than 1,500 tires are
25 kept on the site on any given day.

26 (f) "Waste tire processing facility" means a site
27 where equipment is used to recapture reusable byproducts from
28 waste tires or to cut, burn, or otherwise alter waste tires so
29 that they are no longer whole. The term includes mobile waste
30 tire processing equipment.

31

- 1 (g) "Waste tire site" means a site at which 1,500 or
2 more waste tires are accumulated.
- 3 (h) "Lead-acid battery" means those lead-acid
4 batteries designed for use in motor vehicles, vessels, and
5 aircraft, and includes such batteries when sold new as a
6 component part of a motor vehicle, vessel, or aircraft, but
7 not when sold to recycle components.
- 8 (i) "Indoor" means within a structure which excludes
9 rain and public access and would control air flows in the
10 event of a fire.
- 11 (j) "Processed tire" means a tire that has been
12 treated mechanically, chemically, or thermally so that the
13 resulting material is a marketable product or is suitable for
14 proper disposal.
- 15 (k) "Used tire" means a waste tire which has a minimum
16 tread depth of 3/32 inch or greater and is suitable for use
17 on a motor vehicle.
- 18 (4) The department shall adopt rules to carry out the
19 provisions of this section and s. ss. 403.718 and ~~403.719~~.
20 Such rules shall:
- 21 (a) Provide for the administration or revocation of
22 waste tire processing facility permits, including mobile
23 processor permits;
- 24 (b) Provide for the administration or revocation of
25 waste tire collector registrations, the fees for which may not
26 exceed \$50 per vehicle registered annually;
- 27 (c) Provide for the administration or revocation of
28 waste tire collection center permits, the fee for which may
29 not exceed \$250 annually;i-
- 30 (d) Set standards, including financial assurance
31 standards, for waste tire processing facilities and associated

1 waste tire sites, waste tire collection centers, waste tire
2 collectors, and for the storage of waste tires and processed
3 tires, including storage indoors;

4 (e) The department may by rule exempt not-for-hire
5 waste tire collectors and processing facilities from financial
6 assurance requirements; and

7 ~~(f) Establish procedures for administering the waste~~
8 ~~tire grants program and issuing grants;~~

9 (f)~~(g)~~ Authorize the final disposal of waste tires at
10 a permitted solid waste disposal facility provided the tires
11 have been cut into sufficiently small parts to assure their
12 proper disposal; and

13 (g)~~(h)~~ Allow waste tire material which has been cut
14 into sufficiently small parts to be used as daily cover
15 material for a landfill.

16 Section 10. Section 403.718, Florida Statutes, is
17 amended to read:

18 403.718 Waste tire fees.--

19 (1) For the privilege of engaging in business, a fee
20 for each new motor vehicle tire sold at retail is imposed on
21 any person engaging in the business of making retail sales of
22 new motor vehicle tires within this state. The fee imposed
23 under this section shall be stated separately on the invoice
24 to the purchaser. Such fee shall be imposed at the rate of \$1
25 for each new tire sold. The fee imposed shall be paid to the
26 Department of Revenue on or before the 20th day of the month
27 following the month in which the sale occurs. For purposes of
28 this section, a motor vehicle tire sold at retail includes
29 such tires when sold as a component part of a motor vehicle.
30 The terms "sold at retail" and "retail sales" do not include
31 the sale of new motor vehicle tires to a person solely for the

1 purpose of resale provided the subsequent retail sale in this
2 state is subject to the fee. This fee does not apply to
3 recapped tires. Such fee shall be subject to all applicable
4 taxes imposed in chapter 212.

5 (2) The fee imposed by this section shall be reported
6 to the Department of Revenue. The payment shall be
7 accompanied by such form as the Department of Revenue may
8 prescribe. The proceeds of the waste tire fee, less
9 administrative costs, shall be transferred by the Department
10 of Revenue into ~~the waste tire account within~~ the Solid Waste
11 Management Trust Fund. For the purposes of this section,
12 "proceeds" of the fee means ~~shall mean~~ all funds collected and
13 received by the department hereunder, including interest and
14 penalties on delinquent fees. The amount deducted for the
15 costs of administration must ~~shall~~ not exceed 3 percent of the
16 total revenues collected hereunder and may include ~~shall be~~
17 only those costs reasonably attributable to the fee.

18 (3)(a) The Department of Revenue shall administer,
19 collect, and enforce the fee authorized under this section
20 pursuant to the same procedures used in the administration,
21 collection, and enforcement of the general state sales tax
22 imposed under chapter 212, except as provided in this section.
23 The provisions of this section regarding the authority to
24 audit and make assessments, keeping of books and records, and
25 interest and penalties on delinquent fees ~~shall~~ apply. The
26 fee shall not be included in the computation of estimated
27 taxes pursuant to s. 212.11 nor shall the dealer's credit for
28 collecting taxes or fees in s. 212.12 apply to this fee.

29 (b) The Department of Revenue is authorized to employ
30 persons and incur other expenses for which funds are
31 appropriated by the Legislature. The department is empowered

1 to adopt such rules and shall prescribe and publish such forms
2 as are ~~may be~~ necessary to effectuate the purposes of this
3 section. The department is authorized to establish audit
4 procedures and to assess delinquent fees.

5 Section 11. Water Quality Improvement and Water
6 Restoration Grant Program.--

7 (1) The Department of Environmental Protection shall
8 develop and administer a competitive grant program to use
9 funds transferred pursuant to s. 212.20, Florida Statutes, to
10 the Ecosystem Management and Restoration Trust Fund for water
11 quality improvement and water restoration project grants.
12 Eligible recipients of such grants include counties,
13 municipalities, water management districts, and special
14 districts that have legal responsibilities for water quality
15 improvement, water management, storm water management, sewer
16 system operations, and lake and river restoration projects.

17 (2) The competitive grant program shall provide for
18 the evaluation of annual grant proposals. The department
19 shall evaluate such proposals to determine if they:

20 (a) Protect public health and the environment.
21 (b) Implement plans developed pursuant to the Surface
22 Water Improvement and Management Act created in part IV of
23 chapter 373, Florida Statutes, other water restoration plans
24 required by law, management plans prepared pursuant to s.
25 403.067, Florida Statutes, or other plans adopted by local
26 government for water quality improvement and water
27 restoration.

28 (3) The department shall evaluate the annual grant
29 proposals and present the annual list of projects recommended
30 to be funded to the Governor and the Legislature as part of
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1 its annual budget request submitted pursuant to chapter 216,
2 Florida Statutes, beginning with fiscal year 2003-2004.

3 (4) Each fiscal year, at least 20 percent of the funds
4 available pursuant to subsection (1) shall be used for
5 projects to assist financially disadvantaged small local
6 governments. For purposes of this section, the term
7 "financially disadvantaged small local government" means a
8 municipality having a population of 7,500 or less, a county
9 having a population of 35,000 or less, according to the latest
10 decennial census and a per capita annual income less than the
11 state per capita annual income as determined by the United
12 States Department of Commerce, or a county in an area
13 designated by the Governor as a rural area of critical
14 economic concern pursuant to s. 288.0656, Florida Statutes.
15 Grants made to these eligible local governments shall not
16 require matching local funds.

17 (5) No later than February 1 of each year, water
18 quality improvement projects and water restoration projects
19 submitted for funding through the legislative process shall be
20 submitted to the department by the appropriate fiscal
21 committees of the House of Representatives and the Senate.
22 The department shall review the projects for funding
23 eligibility and must, no later than March 1 of each year,
24 provide each fiscal committee with a list of projects that
25 meet the eligibility requirements under this grant program.

26 (6) The department may adopt rules necessary to
27 administer this section, including, but not limited to, rules
28 governing timeframes for submitting grant applications,
29 evaluation criteria, forms, matching criteria, maximum grant
30 amounts, and allocation of appropriated funds based upon
31 project and applicant size.

1 Section 12. Sections 403.7085, 403.7165, 403.7175, and
2 403.719, Florida Statutes, are repealed.
3 Section 13. Except as otherwise provided herein, this
4 act shall take effect July 1, 2002.
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