

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1137 Waste Management
SPONSOR(S): Stansel
TIED BILLS: **IDEN./SIM. BILLS:** SB 2776

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Natural Resources</u>	_____	<u>Perkins</u>	<u>Lotspeich</u>
2) <u>Local Government & Veterans' Affairs</u>	_____	_____	_____
3) <u>Finance & Tax</u>	_____	_____	_____
4) <u>Agriculture & Environmental (Sub)</u>	_____	_____	_____
5) <u>Appropriations</u>	_____	_____	_____

SUMMARY ANALYSIS

The bill creates a new section in Florida Statutes to provide regulation for recovered construction and demolition debris and provides a certification to Material Recovery Facilities that accept and recycle these materials. The bill also prohibits local government's from enacting any ordinance that prevents holders of building or demolition permits from contracting to have construction and demolition materials collected and transported to a Material Recovery Facility.

The bill does not appear to have a significant fiscal impact.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1137nr.doc
DATE: March 3, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

The bill provides for rulemaking to the Department of Environmental Protection associated with the certification of Material Recovery Facilities and requires local governments to revise existing ordinances or contracts that conflict with this bill.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Issue – Construction & Demolition Materials

The Legislature’s passage of the 1988 Solid Waste Management Act marked the beginning of the state’s role in the support and promotion of construction and demolition (C & D) debris recycling. C & D debris is made up of many components of the waste stream. The main components of C & D include concrete/asphalt, wood, masonry, drywall, metals, plastic, roofing material, and cardboard. C & D debris is gaining attention throughout Florida as Florida’s population continues to grow and large scale developments continue to spring up throughout the state.¹ The Department of Environmental Protection (DEP) indicated in 2001 that 5.76 million tons of C & D debris was generated from all sources in the state. C & D debris is ranked near the top of Florida’s solid waste stream.

The DEP defines Material Recovery Facilities (MRF) as a permitted solid waste facility that provides for the extraction from solid waste recyclable materials suitable for use as fuel or soil amendment, or any combination of such materials. MRF’s do not dispose of solid waste onsite and after materials have been extracted, the remainder of solid waste is transferred to a landfill.²

Regulations that pertain to MRF’s are intended to establish standards for the construction and operation of the facility to minimize their threat to public health and the environment and to provide for the safe handling, processing, storage, and disposal of waste. Currently there is no certification program available for the owners and operators of MRF’s that handle C & D materials. Before MRF’s can be approved for a solid waste management permit from the DEP, they must provide a detailed engineering report. These reports typically include a description of solid waste to be collected, stored, processed or disposed; a description of the operation and functions of all processing equipment, loading, unloading, and processing areas; identification and capacity of temporary on-site storage areas; provisions for solid waste and leachate containment; and identification of potential ground water and surface water contamination. Other requirements that MRF’s must comply with include financial responsibility for closure, stormwater management, and data reporting to DEP.³

¹ 2001 DEP, C & D Recycling Study

² 2001 DEP, C & D Recycling Study

³ 2001 DEP, C & D Recycling Study

Some local governments establish exclusive commercial solid waste franchises that only allow the franchised hauler to place C & D debris pick-up bins at construction sites. This prevents other companies that recycle C & D waste from placing pick-up bins to collect materials in that jurisdiction and may hinder the recycling of C & D debris in certain regions of the state.⁴

Effect of Proposed Change

Issue – Construction & Demolition Materials

The bill creates section 403.7047, F.S., which is known as “Regulation of recovered construction and demolition materials”. This section provides the following provisions:

- An owner of a MRF that accepts C & D debris for processing may annually apply for certification with DEP. The DEP is required to certify a MRF if the applicant demonstrates the following:
 1. The MRF meets all applicable permitting requirements;
 2. The MRF weighs all incoming waste using scales that conform to statutory and rule requirements; and
 3. At least an “appropriate percentage” (50 percent) of the C & D debris accepted at the MRF has been or will be sold, used, or reused within one year. The DEP may adopt rules to implement these requirements and may adjust the “appropriate percentage” rate of 50 percent. This provision establishes a certification program for owners and operators of MRF’s.

Local Government Provisions:

- A local government may not enact any ordinance or enter into any contract that prevents the holder of a building permit or a demolition permit from entering into a contract to have C & D debris processed if the materials will be delivered to a certified MRF.
- A local government may not enact any ordinance that prevents a certified MRF from accepting C & D from the holder of a building permit or a demolition permit, or from a transporter collecting the material from the holder of a building permit or demolition permit.
- A local government may require that various types of recovered C & D debris be separated from each other at the permitted building or demolition site only after it has determined that the source separation at the permitted building or demolition site is cost-effective when compared to other collection and recycling methods.
- A local government may impose the following:
 - 1) A registration process whereby persons handling C & D debris must register with the local government before engaging in business within the jurisdiction of the local government;
 - 2) A reporting process consistent with that established by the DEP pursuant to statutory authority;
 - 3) A registration fee commensurate with and no greater than the cost incurred by the local government in operating its registration program;
 - 4) A local government may enter into a nonexclusive franchise for the collection, transportation, and processing of C & D materials if the materials will be delivered to a certified MRF;
 - 5) A local government may not require any person to enter into a franchise agreement in order to purchase, collect, transport, process, or receive C & D materials if such materials will be delivered to a certified MRF.

⁴ DEP, Legislative Bill Analysis, Received March 3, 2004.

6) A local government may impose a franchise fee for the collection of C & D materials, provided that the fee is expressed as a rate and provided that such rate is no greater than that imposed by the local government on other solid waste collected within the local government's jurisdiction.

- A local government may not adopt any ordinance relating to C & D material collection, processing, or recovery that does not comply with section 403.7047, F.S. Any ordinance in effect on the effective date of this act that does not comply with this section 403.7047, F.S., must be amended within 90 days after the effective date of this act. Any contract in effect on the effective date of this act that does not comply with section 403.7047, F.S., must be amended to comply with section 403.7047, F.S., upon the contract renewal.
- Nothing in section 403.7047, F.S., prohibits a local government from enacting ordinances designed to protect the public's general health, safety, and welfare.

C. SECTION DIRECTORY:

Section 1. Creates s. 403.7047, F.S., relating to the regulation of C & D materials.

Section 2. Provides that the act will take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures:

Non-recurring Effects: HB 1137 includes rulemaking authority to implement the bill's provisions. Rulemaking costs will be insignificant and non-recurring. These costs include DEP's efforts to publicize a proposed rule through mail-outs and public workshops around the state, as well as costs associated with publication and process requirements pursuant to Chapter 120, F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures: Unknown. Local governments may incur costs in revising existing ordinances or contracts that conflict with section 403.7047, F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may:

- Reduce revenues for solid waste companies with exclusive franchises;
- Benefit companies that operate MRF's and may lower disposal costs for C & D companies; and
- Improve competition by allowing companies that recycle C & D materials to place C & D material pick-up bins in jurisdictions that are currently unavailable to them.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because this bill imposes certain limitations and requirements on local governments. However, an exemption applies because these limitations and requirements appear to have an insignificant fiscal impact on local governments.

2. Other: None.

B. RULE-MAKING AUTHORITY:

DEP may create additional rules to implement the certification of MRF's.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES