

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

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Prepared By: Environmental Preservation Committee

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BILL: CS/SB 1906

SPONSOR: Environmental Preservation Committee and Senator Dockery

SUBJECT: Reuse and Recycling

DATE: April 12, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Branning</u>	<u>Kiger</u>	<u>EP</u>	<u>Fav/CS</u>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

The committee substitute provides that a local government may not enter into a franchise agreement or contract granting exclusive collections for construction and demolition (C&D) debris if such debris is primarily destined for disposal and a qualified materials recovery facility is available to the local government as a feasible alternative to disposal of the C&D debris.

The committee substitute provides that nothing in this bill limits the local government's authority to enter into a franchise agreement or contract for the collection of C&D debris that is taken to a qualified materials recovery facility.

The committee substitute further does not limit the local government's authority or obligation to honor any existing franchise agreement or contract for solid waste management through its current expiration date. Further, the bill does not prohibit a local government from enacting ordinances designed to protect the public's general health, safety, and welfare.

The Department of Environmental Protection is authorized to implement a pilot project to encourage the reuse or recycling of campaign signs. The department may use funds from the Solid Waste Management Trust Fund to provide a grant to at least two large counties and at least two small counties to establish a central depository for used campaign signs and to make such signs available, at no cost to the receiving entity, to schools and other entities that may have a use for them, and to companies that can recycle the materials from which the signs are made into new materials or products.

This committee substitute creates ss. 403.7047 and 403.71853, F.S.

## II. Present Situation:

One of the major goals of the 1988 Solid Waste Management Act was to reduce the amount of solid waste that was being sent to Florida's landfills by establishing and encouraging recycling and volume reduction programs. Waste reduction is an integral part of Florida's municipal solid waste management system. Waste reduction, generally synonymous with recycling, is measured by assessing the amount of waste that is not being burned in a waste-to-energy facility or buried in a landfill.

Section 403.703, F.S., provides the definitions that are used in the Solid Waste Management Act. "Recycling" means any process by which solid waste, or materials which would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products. "Recyclable material" means those materials which are capable of being recycled and which would otherwise be processed or disposed of as solid waste.

"Construction and demolition debris" (C&D) means discarded materials generally considered to be not water-soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or demolition project or from the renovation of a structure, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project. The term also includes clean cardboard, paper, plastic, wood, and metal scraps from a construction project; and unpainted, nontreated wood scraps from facilities manufacturing materials used for construction.

"Recovered materials" means metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use, or reuse as raw material, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal.

According to report prepared by Department of Environmental Protection (DEP) in 2001<sup>1</sup>, Florida generated about 29 million tons of solid waste in 1998, and an estimated 9.4 million tons (or 33 percent) could be classified as C&D debris. Of that 9.4 million tons of C&D debris, about 3.3 million tons (or 36 percent) was recycled; the majority was concrete debris, used as fill at construction sites, mixed with aggregate to make new concrete, mixed with asphalt for road construction, or as drainage material.

The U.S. Environmental Protection Agency reports that Florida has one-seventh of all the C&D landfills in the nation, due to relatively low disposal fees and the state's high rate of development. According to DEP, Florida has 94 active C&D disposal facilities, and 82 active facilities that accept land-clearing debris only. There are five registered C&D recycling facilities, but there are several other multi-purpose facilities and transfer stations that also engage in some C&D recycling, as specified in their permits. The C&D materials recovery facilities are inspected three times a year.

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<sup>1</sup> C&D Debris Recycling Study: Final Report. 2001. Available at [http://www.dep.state.fl.us/waste/quick\\_topics/publications/shw/recycling/candd/CD%20report%205-8.pdf](http://www.dep.state.fl.us/waste/quick_topics/publications/shw/recycling/candd/CD%20report%205-8.pdf)

C&D materials that are not recycled can be disposed of in Class III landfills which accept waste that does not leach into the groundwater. These landfills typically are not lined, but according to s. 403.707(12), F.S., must implement a groundwater monitoring system adequate to detect any possible contamination to groundwater. The owners of these landfills must maintain a proper training program for their operators, maintain records, and provide financial assurances.

Since the 1980s, Florida has promoted recycling as a way to reduce the amount of valuable land being used as landfills, to reduce groundwater contamination, and to promote a sustainable environment. Section 403.706, F.S., requires counties and cities to reduce by at least 30 percent the amount of solid waste they generate. Newsprint, aluminum and steel cans, glass, plastic bottles, cardboard, office paper, and yard trash are the waste materials listed for recycling credits. Recycling of C&D debris is not factored into the 30-percent reduction.

Section 403.7046, F.S., limits a local government's ability to regulate the collection of recovered material. A local government is prohibited from requiring a commercial generator of recovered materials to send those materials to any specific facility; instead, the generator may send them to any properly certified recovered materials dealer. A local government is further prohibited from requiring an exclusive franchise for the collection of commercially generated recovered materials.

There are no prohibitions against local governments entering into exclusive franchises with companies to collect, transport, and dispose of household garbage and other types of solid waste. Depending on the franchise terms, this solid waste is disposed of at the county- or city-owned landfill, or at landfills owned by the hauler or another private entity.

During any election – local, state, or federal – campaign signs are posted throughout the candidate's affected district. Many of those signs are posted in yards of private citizens. These signs are often made of materials that could be reused or recycled if the mechanism to do so existed. Most signs are made of either polyethylene coated cardboard or corrugated polypropylene. Schools often use old corrugated polypropylene campaign signs and sign stakes for crafts and other such projects. Generally, there appears to be a low market value for such material.

At the present time, there is no mechanism to collect, store, or transport old campaign signs to a recycling facility. The vast majority of the old campaign signs currently end up in the landfill as solid waste. Local ordinances generally require the collection of campaign signs from the public right-of-way within a certain number of days after an election.

### **III. Effect of Proposed Changes:**

**Section 1.** The committee substitute creates s. 403.7047, F.S., to provide for the collection and recycling of construction and demolition (C&D) debris. The stated intent is to increase the recycling potential of C&D debris.

A local government may not enter into a franchise agreement or contract granting exclusive collections for C&D debris if such debris is primarily destined for disposal and a qualified

materials recovery facility is available to the local government as a feasible alternative to disposal of the C&D debris. A qualified materials recovery facility means a facility that:

- Is located within the county and within a reasonable distance of the center of the local government;
- Is properly permitted by the Department of Environmental Protection (DEP) to accept C&D debris;
- Operates in compliance with applicable local ordinances, including those which regulate the disposal of residual waste from the materials recovery facility;
- Agrees to provide documentation to the local government upon request specifying the amount and type of materials handled at the facility, the amount of materials being disposed of, the disposal site location, and the name of the person with whom such disposal was arranged; and
- Recovers, on an annual average, at least 50 percent of the C&D debris received at the facility.

Nothing in this section limits the local government's authority to enter into a franchise agreement or contract for the collection of C&D debris that is taken to a qualified materials recovery facility.

This section does not limit the local government's authority or obligation to honor any existing franchise agreement or contract for solid waste management through its current expiration date. Further, this section does not prohibit a local government from enacting ordinances designed to protect the public's general health, safety, and welfare.

**Section 2.** Section 403.71853, F.S., is created to authorize the DEP to implement a pilot project to encourage the reuse or recycling of campaign signs. The department may use funds from the Solid Waste Management Trust Fund to provide a grant to at least two large counties and at least two small counties to establish a central depository for used campaign signs and to make such signs available, at no cost to the receiving entity, to schools and other entities that may have a use for them, and to companies that can recycle the materials from which the signs are made into new materials or products.

**Section 3.** This act shall take effect July 1, 2005.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill may create competition for certain solid waste haulers. Currently, some haulers may have an exclusive franchise agreement to haul solid waste, including C&D. Under this bill, there would be competition for the transportation of certain C&D materials destined to be recycled.

C. Government Sector Impact:

To the extent that C&D material can be processed for recycling and reused, landfill space can be saved.

**VI. Technical Deficiencies:**

Section 2 of the committee substitute was intended to include the language from CS/SB 1542, relating to campaign sign recycling, that was heard by the Environmental Preservation Committee and voted out favorably on March 21, 2005. The committee substitute, however, inadvertently included the language from SB 1542 as it was filed, not as it was amended and passed by the Environmental Preservation Committee as a committee substitute.

**VII. Related Issues:**

None.



## **VIII. Summary of Amendments:**

None.

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

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