

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: CS/SB 730

INTRODUCER: Environmental Preservation Committee and Senator Crist

SUBJECT: Permitting of Class I landfills

DATE: April 1, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Branning	Kiger	EP	Fav/CS
2.			GA	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The committee substitute (CS) requires the Department of Environmental Protection (DEP) to conduct a study regarding the appropriate distance a Class I landfill should be located from a Class III surface waters, as well as the extent to which water flow affects the carriage of pollutants to and from potable water sources and existing landfills. The DEP must report to the President of the Senate, the Speaker of the House of Representatives, and the Governor by February 1, 2008.

The CS further prohibits DEP from approving an application for a new Class I landfill or the expansion of an existing Class I landfill under certain conditions.

This bill amends s. 403.707, F.S.

II. Present Situation:

Currently, s. 403.707(5), F.S., provides that the DEP may not issue a construction permit for a new solid waste landfill within 3,000 feet of Class I surface waters. This prohibition applies to both Class I and Class III landfills since there are no Class II landfills being permitted in Florida.

Currently, there are 53 active Class I landfills and 41 Class III landfills in Florida. According to rule 62-701.340, Florida Administrative Code, landfills or solid waste disposal units are classified according to the amount or types of wastes received.

- Class I landfills are those which receive an average of 20 tons or more of Class I waste¹ per day.
- Class II landfills are those which receive an average of less than 20 tons of Class I waste per day. (These are no longer being permitted since most such facilities opt to be permitted as a Class I landfill.)
- Class III landfills are those which receive only Class III waste². Class III landfills cannot accept putrescible household waste. The DEP shall exempt Class III landfills from some or all of the requirements for liners, leachate controls, and water quality monitoring if the applicant demonstrates that no significant threat to the environment will result from the exemption based upon the types of waste received, methods for controlling types of waste disposed of, and the results of the required hydrogeological and geotechnical investigations.

Pursuant to the federal Clean Water Act, surface waters of each state are classified according to designated uses. Florida has five classes with associated designated uses, which are arranged in order of degree of protection required:

- Class I — Potable water supplies
- Class II — Shellfish propagation or harvesting
- Class III — Recreation, propagation and maintenance of a healthy, well-balanced population of fish and wildlife
- Class IV — Agricultural water supplies
- Class V — Navigation, utility and industrial use (Florida has no Class V waters. Florida's only Class V water, the Fenholloway River was reclassified as a Class III water in 1998.)

III. Effect of Proposed Changes:

The CS amends s. 403.707, F.S., to require the DEP to conduct a study regarding the appropriate distance a Class I landfill should be located from a Class III surface waters, as well as the extent to which water flow affects the carriage of pollutants to and from potable water sources and existing landfills. The results of this study shall be reported to the President of the Senate, the Speaker of the House of Representatives, and the Governor by February 1, 2009. The DEP shall develop standards and procedures for conducting the study and shall make recommendations to the Legislature regarding the expansion or construction of Class I landfills in the state.

The CS further provides that the DEP may not approve an application for the construction of a new Class I landfill or the expansion of an existing Class I landfill if, in an enforcement notice or order, the department finds that in the 3-year period before the date of the department's decision the applicant violated a state law or rule governing the disposal or management of hazardous waste, biomedical waste, or polychlorinated biphenyl waste in regard to the operation or

¹ Class I wastes means solid waste which is not hazardous waste, and which is not prohibited from disposal in a lined landfill. (rule 62-701.200, F.A.C.)

² "Class III wastes" means yard trash, construction and demolition debris, processed tires, asbestos, carpet, cardboard, paper, glass, plastic, furniture other than appliances, or other materials approved by the DEP that are not expected to produce leachate which poses a threat to public health or the environment.

maintenance of a solid waste management facility or solid waste disposal facility. If such a finding is under appeal in an administrative or judicial proceeding, the department may not approve the application until the appeal is exhausted.

The CS would take effect July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The CS would prohibit the DEP from approving an application for the construction of a new Class I landfill or the expansion of existing Class I landfill if the applicant violated state laws or rules relating to the disposal of certain materials. This appears to affect only one Class I landfill in the state. That landfill is located in Pasco County.

C. Government Sector Impact:

The DEP would have to conduct a study and report to the Legislature and the Governor by February 1, 2009, regarding locating a Class I landfill in relation to a Class III water. The costs for such a study are not known at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environmental Preservation and Conservation Committee on 04/09/08:

The CS requires the DEP to conduct a study regarding the appropriate distance a Class I landfill should be located from a Class III surface waters, as well as the extent to which water flow affects the carriage of pollutants to and from potable water sources and existing landfills. The DEP must report to the President of the Senate, the Speaker of the House of Representatives, and the Governor by February 1, 2008.

The CS further prohibits DEP from approving an application for a new Class I landfill or the expansion of an existing Class I landfill under certain conditions.

- B. **Amendments:**

None.