

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Gibbons offered the following:

2  
3 **Amendment (with title amendment)**

4 Between lines 32-33, insert:

5 Section 1. Section 287.045, Florida Statutes, is amended  
6 to read:

7 287.045 Procurement of products and materials with  
8 recycled content; procurement of remanufactured products,  
9 equipment, and instruments.--

10 (1)(a) The department, in cooperation with the Department  
11 of Environmental Protection, shall review and revise existing  
12 procurement procedures and specifications for the purchase of  
13 products, equipment, and materials, and instruments to eliminate  
14 any procedures and specifications that explicitly discriminate  
15 against products and materials with recycled content, or  
16 remanufactured products, equipment, or instruments, except where

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17 such procedures and specifications are necessary to protect the  
18 public health, safety, and welfare.

19 (b) Each agency shall review and revise its procurement  
20 procedures and specifications for the purchase of products,  
21 equipment, and materials, and instruments to eliminate any  
22 procedures and specifications that explicitly discriminate  
23 against products and materials with recycled content, or  
24 remanufactured products, equipment, or instruments, except if  
25 such procedures and specifications are necessary to protect the  
26 public health, safety, and welfare.

27 (2) (a) The department and each agency shall review and  
28 revise its procurement procedures and specifications for the  
29 purchase of products, equipment, and materials, and instruments  
30 to ensure to the maximum extent feasible that each agency uses  
31 state contracts to purchase products, equipment, ~~or~~ materials,  
32 or instruments that may be recycled, ~~or~~ reused, or  
33 remanufactured when such these products, equipment, ~~or~~  
34 materials, or instruments are discarded.

35 (b) The Auditor General shall assist in monitoring the  
36 ~~product~~ procurement requirements of this section.

37 (3) As part of the review and revision required in  
38 subsection (2), the department and each agency shall review its  
39 procurement provisions and specifications for the purchase of  
40 products, equipment, and materials, and instruments to determine  
41 which products or materials with recycled content, and which  
42 remanufactured products, equipment, or instruments, could be  
43 procured by the department or other agencies and, where  
44 applicable, the amount of recycled content that can

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45 | technologically be contained in procured ~~such~~ products or  
46 | materials. The department and other agencies must use the  
47 | amounts of recycled content and postconsumer recovered material  
48 | determined by the department, or state that products, equipment,  
49 | or instruments are remanufactured, in issuing solicitations for  
50 | contracts for the purchase of such products, equipment, ~~or~~  
51 | materials, or instruments.

52 |         (4) Upon completion of the review required in subsection  
53 | (3), the department and other agencies shall require that a  
54 | person who submits a bid, proposal, or reply for a contract for  
55 | the purchase of products, equipment, ~~or~~ materials, or  
56 | instruments identified in subsection (3) and who wishes to be  
57 | considered for the price preference described in subsection (5)  
58 | certify in writing the percentage of recycled content in the  
59 | product or material that is subject to the bid, proposal, or  
60 | reply or certify in writing that the products, equipment, or  
61 | instruments that are subject to the bid, proposal, or reply are  
62 | remanufactured. A person may certify that the product or  
63 | material contains no recycled content or that the product,  
64 | equipment, or instrument is original equipment.

65 |         (5) Upon evaluation of bids, proposals, or replies for  
66 | every public contract that involves the purchase of products,  
67 | equipment, ~~or~~ materials, or instruments identified in subsection  
68 | (3), the department or other agency shall identify the lowest  
69 | responsible and responsive vendor and other responsible and  
70 | responsive vendors who have certified that the products or  
71 | materials contain at least the minimum percentage of recycled  
72 | content and postconsumer recovered material, or who have

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73 certified that the products, equipment, or instruments are  
74 remanufactured, as ~~that is~~ set forth in the solicitation. The  
75 department or agency may consider life-cycle costing when  
76 evaluating a bid, proposal, or reply on a product that consists  
77 of recycled materials or on remanufactured products, equipment,  
78 or instruments. The department shall adopt rules that specify  
79 the criteria to be used when considering life-cycle costing in  
80 evaluating bids, proposals, or replies. The rules must take into  
81 consideration the specified warranty periods for products,  
82 equipment, or instruments and the comparative expected service  
83 life relative to the cost of the products, equipment, or  
84 instruments. In awarding a contract for the purchase of  
85 products, equipment, ~~or~~ materials, or instruments, the  
86 department or other agency may allow up to a 10-percent price  
87 preference to a responsible and responsive vendor who has  
88 certified that the products or materials contain at least the  
89 minimum percentage of recycled content and postconsumer  
90 recovered material, or are remanufactured products, equipment,  
91 or instruments, and up to an additional 5-percent price  
92 preference to a responsible and responsive vendor who has  
93 certified that the products or materials ~~material~~ are made of  
94 materials recovered in this state or that the products,  
95 equipment, or instruments are remanufactured in this state. The  
96 amount of the price preference must be commensurate with the  
97 certified amounts of recycled material and postconsumer  
98 recovered material and materials recycled from products in this  
99 state, contained in the product or materials, or with the  
100 certification that the products, equipment, or instruments are

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101 remanned or remanned in this state, on a sliding  
102 scale as established by department rule, ~~which rule shall not~~  
103 ~~become effective prior to November 1, 1994.~~ Reusable materials  
104 and products and remanned products, equipment, and  
105 instruments shall be used where economically and technically  
106 feasible. If no vendors offer products or materials with  
107 measurable life-cycle costing factors or the minimum prescribed  
108 recycled and postconsumer content, or remanned products,  
109 equipment, or instruments, the contract must be awarded to the  
110 lowest qualified responsible and responsive vendor.

111 (6) For the purposes of this section, the term:

112 (a) "Recycled content" means materials that have been  
113 recycled that are contained in the products or materials to be  
114 procured, including, but not limited to, paper, aluminum, steel,  
115 glass, plastics, and composted material. The term does not  
116 include the virgin component of internally generated scrap that  
117 is commonly used in industrial or manufacturing processes or  
118 such waste or scrap purchased from another manufacturer who  
119 manufactures the same or a closely related product. Recycled  
120 content printing and fine writing grades of paper shall contain  
121 at least 10 percent postconsumer recovered materials.

122 (b) "Remanned" refers to a product, equipment, or  
123 instrument that has undergone rebuilding, repair, or restoration  
124 to meet or exceed the original equipment manufacturer's  
125 specifications and which may be sold and serviced by a third  
126 party and may carry a warranty that is different from the  
127 warranty provided by the original equipment manufacturer.

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128 (7) Any person may request the department to evaluate a  
129 product or material with recycled content, or remanufactured  
130 product, equipment, or instrument, if the product, equipment, ~~or~~  
131 material, or instrument is eligible for inclusion under state  
132 contracts. The department shall review each reasonable proposal  
133 to determine its merit and, if it finds that the product,  
134 equipment, ~~or~~ material, or instrument may be used beneficially,  
135 it may incorporate that product, equipment, ~~or~~ material, or  
136 instrument into its procurement procedures.

137 (8) The department and each agency shall review and revise  
138 its procedures and specifications on a continuing basis to  
139 encourage the use of products and materials with recycled  
140 content and postconsumer recovered material, and remanufactured  
141 products, equipment, and instruments, and shall, in developing  
142 new procedures and specifications, encourage the use of products  
143 and materials with recycled content and postconsumer recovered  
144 material and remanufactured products, equipment, and  
145 instruments.

146 (9) ~~After November 1, 1994,~~ The department may discontinue  
147 contracting for products or materials the recycled content of  
148 which does not meet the requirements of subsection (3), and may  
149 discontinue contracting for remanufactured products, equipment,  
150 or instruments which do not meet the requirements of subsection  
151 (3), if it determines that products, equipment, ~~or~~ materials, or  
152 instruments meeting those requirements are available at a cost  
153 not to exceed an additional 10 percent of comparable virgin  
154 products or original equipment products, equipment, or  
155 instruments.

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156           (10) (a) An agency, or a vendor contracting with such  
157 agency with respect to work performed under contract, must  
158 procure products or materials with recycled content, or  
159 remanufactured products, equipment, or instruments, if the  
160 department determines that those products, equipment, ~~or~~  
161 materials, or instruments are available pursuant to subsection  
162 (5).

163           (b) Notwithstanding any other provision to the contrary,  
164 for the purpose of this section, the term "agency" means any of  
165 the various state officers, departments, boards, commissions,  
166 divisions, bureaus, and councils and any other unit of  
167 organization, however designated, of the executive branch  
168 including the Department of the Lottery, the legislative branch,  
169 the judicial branch, the university and college boards of  
170 trustees, and the state universities and colleges.

171           (c) A decision not to procure such items must be:

172           1. Based on the department's determination that such  
173 procurement:

174           a. Is not reasonably available within an acceptable period  
175 of time; or

176           b. Fails to meet the performance standards set forth in  
177 the applicable specifications; or

178           c. Fails to meet the performance standards of the agency.

179           2. Accompanied by a detailed technological justification  
180 prepared by the department explaining the need to use or obtain  
181 products or materials that do not contain recycled content or  
182 original equipment manufacturers' products, equipment, or

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183 instruments instead of products or materials containing recycled  
184 content or remanufactured products, equipment, or instruments.

185 (11) Each agency shall report annually to the department  
186 its total expenditures on, and use of, products with recycled  
187 content and remanufactured products, equipment, or instruments  
188 and the percentage of its budget that represents purchases of  
189 similar products made from virgin materials or original  
190 equipment products, equipment, or instruments. The department  
191 shall design a uniform reporting mechanism and prepare annual  
192 summaries of statewide purchases delineating those with recycled  
193 content or consisting of remanufactured products, equipment, or  
194 instruments to be submitted to the Governor, the President of  
195 the Senate, and the Speaker of the House of Representatives.

196 Section 2. Section 403.7065, Florida Statutes, is amended  
197 to read:

198 403.7065 Procurement of products or materials with  
199 recycled content; procurement of remanufactured products,  
200 equipment, or instruments.--

201 (1)(a) Except as provided in s. 287.045, any state agency  
202 or agency of a political subdivision of the state which is using  
203 state funds, or any person contracting with any such agency with  
204 respect to work performed under contract, is required to procure  
205 products or materials with recycled content, or, where  
206 applicable, remanufactured products, equipment, or instruments,  
207 when the Department of Management Services determines that such  
208 ~~those~~ products, or materials, equipment, or instruments are  
209 available.

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210        (b) A decision not to procure ~~such~~ items described in  
211 paragraph (a) must be:

212        1. Based on the Department of Management Services'  
213 determination that such procurement:

214        a. Is not reasonably available within an acceptable period  
215 of time; or

216        b. Fails to meet the performance standards set forth in  
217 the applicable specifications; or

218        c. Fails to meet the performance standards of the agency.

219        2. Accompanied by a detailed technological justification  
220 prepared by the department explaining the need to use or obtain  
221 products or materials that do not contain recycled content or  
222 original equipment manufacturers' products, equipment, or  
223 instruments instead of products or materials containing recycled  
224 content or remanufactured products, equipment, or instruments.

225        (c) When the requirements of s. 287.045 are met, agencies  
226 shall be subject to the procurement requirements of that section  
227 for procuring products or materials with recycled content.

228        (2) For the purposes of this section: or

229        (a) "Recycled content" means materials that have been  
230 recycled that are contained in the products or materials to be  
231 procured, including, but not limited to, paper, aluminum, steel,  
232 plastic, glass, and composted material. The term does not  
233 include the virgin component of internally generated scrap that  
234 is commonly used in the industrial or manufacturing processes  
235 from which it was generated or waste or scrap purchased from  
236 another manufacturer who manufactures the same or a closely  
237 related product.

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238       (b) "Remanufactured" refers to a product, equipment, or  
239 instrument that has undergone rebuilding, repair, or restoration  
240 to meet or exceed the original equipment manufacturer's  
241 specifications and which may be sold and serviced by a third  
242 party and may carry a warranty that is different from the  
243 warranty provided by the original equipment manufacturer.

244       Section 3. Paragraph (f) of subsection (3) of section  
245 403.7061, Florida Statutes, is amended to read:

246       403.7061 Requirements for review of new waste-to-energy  
247 facility capacity by the Department of Environmental  
248 Protection.--

249       (3) An applicant must provide reasonable assurance that  
250 the construction of a new waste-to-energy facility or the  
251 expansion of an existing waste-to-energy facility will comply  
252 with the following criteria:

253       (f) The local government in which the facility is located  
254 has implemented a program to procure products or materials with  
255 recycled content and remanufactured products, equipment, or  
256 instruments, pursuant to s. 403.7065.

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258 -----  
259                   **T I T L E   A M E N D M E N T**

260       Remove line 2 and insert:

261       An act relating to public procurement contracts; amending  
262       s. 287.045, F.S.; revising provisions relating to the  
263       procurement of products and materials with recycled  
264       content by the Department of Management Services to  
265       include procurement of remanufactured products, equipment,

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266 and instruments; providing procedures and requirements  
267 with respect to such procurement; requiring the department  
268 to adopt specified rules; removing obsolete language;  
269 defining "remanufactured"; providing an additional  
270 requirement upon a decision by the Department of  
271 Management Services not to procure recycled or  
272 remanufactured products, materials, equipment, or  
273 instruments; amending s. 403.7065, F.S.; expanding  
274 provisions which require state agencies to procure  
275 products or materials with recycled content to include the  
276 procurement of remanufactured products, equipment, and  
277 instruments; providing an additional requirement upon a  
278 decision by the Department of Management Services not to  
279 procure recycled or remanufactured products, materials,  
280 equipment, or instruments; defining "remanufactured";  
281 amending s. 403.7061, F.S.; revising provisions with  
282 respect to criteria for the construction of new or the  
283 expansion of existing waste-to-energy facilities, to  
284 conform;

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