

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 Committee on Environment and Natural Resources

BILL: CS/SB 724

INTRODUCER: Environment and Natural Resources Committee and Senator Albritton

SUBJECT: Local Government Recycling Programs

DATE: December 10, 2019 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schreiber	Rogers	EN	Fav/CS
2.			CA	
3.			AP	

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 724 provides an exemption for fiscally constrained counties from recycling goals required for county recycling programs. The bill creates within the Department of Environmental Protection (DEP) the Florida Recycling Working Group, consisting of members from eleven public and private organizations. The working group must submit a report to the Legislature. The working group is repealed on July 1, 2021.

II. Present Situation:

Local Government Solid Waste Responsibilities

Each Florida county has the responsibility and authority to provide for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the county.¹ Counties may charge reasonable fees for the handling and disposal of solid waste at their facilities.² Municipalities are responsible for collecting and transporting solid waste from their jurisdictions to a solid waste disposal facility operated by a county or operated under a contract with a county.³ Under Florida law, “recycling” is defined as “any process by which solid waste, or materials that would otherwise become solid waste, are collected, separated, or

¹ Section 403.706(1), F.S. Municipalities may also be authorized to construct and operate solid waste disposal facilities, if certain statutory requirements are met; Fla. Admin. Code Ch. 62-701.

² *Id.*

³ *Id.*

processed and reused or returned to use in the form of raw materials or intermediate or final products.”⁴

Each Florida county must have a recyclable materials recycling program that has a goal of recycling 40 percent of recyclable solid waste by December 31, 2012; 50 percent by December 31, 2014; 60 percent by December 31, 2016; 70 percent by December 31, 2018; and 75 percent by December 31, 2020.⁵ These programs must be designed to recover a significant portion of at least four of the following materials from the solid waste stream prior to final disposal at a solid waste disposal facility and to offer these materials for recycling:

- Newspapers.
- Aluminum cans.
- Steel cans.
- Glass.
- Plastic bottles.
- Cardboard.
- Office paper.
- Yard trash.⁶

Each county must ensure, to the maximum extent possible, that municipalities within its boundaries participate in the preparation and implementation of recycling and solid waste management programs through interlocal agreements or other means provided by law.⁷ Counties and municipalities are encouraged to form cooperative arrangements for implementing recycling programs.⁸ Certain activities are eligible for special credit towards achieving a county’s recycling goals, including the use of solid waste as a fuel in a renewable energy facility, the innovative use of yard trash or other clean wood waste or paper waste, and providing opportunities to recycle in counties with smaller populations.⁹ To assess progress, counties must provide information on their solid waste management programs and recycling activities to the Department of Environmental Protection (DEP) by April 1 of each year.¹⁰

“Municipal solid waste” includes any solid waste, except for sludge, resulting from the operation of residential, commercial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service.¹¹ The term includes yard trash but does not include solid waste from industrial, mining, or agricultural operations. DEP may reduce or modify the municipal solid waste recycling goal that a county is required to achieve if the county demonstrates to DEP that:

- The achievement of the goal would have an adverse effect on the financial obligations of the county that are directly related to the county’s waste-to-energy facility; and

⁴ Section 403.703(31), F.S.

⁵ Section 403.706(2)(a), F.S. These are interim goals to help Florida reach the goal of recycling at least 75% of municipal solid waste by 2020; Ch. 2010-143, s. 7, Laws of Fla.; *see also* s. 403.7032(2), F.S.

⁶ Section 403.706(2)(f), F.S.

⁷ Section 403.706(3), F.S.

⁸ Section 403.706(2)(a), F.S.

⁹ Section 403.706(4), F.S.

¹⁰ Section 403.706(7), F.S.; Fla. Admin. Code R. 62-716.450.

¹¹ Section 403.706(5), F.S.

- The county cannot remove normally combustible materials from solid waste that is to be processed at a waste-to-energy facility because of the need to maintain a sufficient amount of solid waste to ensure the financial viability of the facility.¹²

The goal may only be reduced or modified to the extent necessary to alleviate the adverse effects on the financial viability of a county's waste-to-energy facility.¹³

In the development and implementation of a curbside recyclable materials collection program, a county or municipality must enter into negotiations with a franchisee who is operating to exclusively collect solid waste within a service area of a county or municipality to undertake curbside recyclable materials collection responsibilities for a county or municipality.¹⁴ Local governments are authorized to enact ordinances that require and direct all residential properties, multifamily dwellings, and apartment complexes and industrial, commercial, and institutional establishments as defined by the local government to establish programs for the separation of recyclable materials designated by the local government.¹⁵ Local governments are authorized to provide for the collection of the recyclable materials. A market must exist for the recyclable materials, and the local government must specifically intend for them to be recycled.¹⁶ Such ordinances may include, but are not limited to, prohibiting any person from knowingly disposing of recyclable materials designated by the local government, and ensuring the collection of recovered materials as necessary to protect public health and safety.¹⁷

A local government may not:

- Require a commercial establishment that generates source-separated recovered materials to sell or otherwise convey its recovered materials to the local government or to a facility designated by the local government;
- Restrict such a generator's right to sell or otherwise convey such recovered materials to any properly certified recovered materials dealer who has satisfied the statutory requirements; or
- Enact any ordinance that prevents such a dealer from entering into a contract with a commercial establishment to purchase, collect, transport, process, or receive source-separated recovered materials.¹⁸

Local governments may require a commercial establishment to source separate the recovered materials generated on the premises.¹⁹

Florida's Recycling Goal

In 2008, in recognition of the volume of waste generated by Floridians and visitors every year and the value of some of these discarded commodities, the Legislature set a statewide goal to recycle at least 75 percent of the municipal solid waste that would otherwise be disposed of in

¹² Section 403.706(6), F.S.

¹³ *Id.*

¹⁴ Section 403.706(9), F.S.

¹⁵ Section 403.706(21), F.S.

¹⁶ *Id.*

¹⁷ Section 403.706(21), F.S.

¹⁸ Section 403.7046(3), F.S.

¹⁹ Section 403.7046(3)(a), F.S.

waste management facilities, landfills, or incineration facilities by 2020.²⁰ DEP has established numerous programs and initiatives to reach that goal.²¹ In 2010, the Legislature established the interim goals that counties must pursue leading up to 2020.²²

In those years when the recycling rate does not meet the statutory thresholds for these interim goals, DEP must provide a report to the President of the Senate and the Speaker of the House of Representatives.²³ This report must identify those additional programs or statutory changes needed to achieve the state's recycling goals.²⁴ Florida achieved the interim recycling goals established for 2012 and 2014, but Florida's recycling rate for 2016 was 56 percent, falling short of the interim recycling goal of 60 percent by 2017.²⁵ DEP submitted the most recent report in 2017.²⁶ The current practices in Florida are not expected to significantly increase the recycling rate beyond the 56 percent rate.²⁷ The most recent interim goal was 70 percent by January 1, 2019, and DEP is expected to submit a report prior to the 2020 session. Without significant changes to Florida's current approach, the state's recycling rate will likely fall short of the 2020 goal of 75 percent.²⁸

DEP, in partnership with material recycling facilities (MRFs) across the state, has developed a statewide public education campaign, entitled "Rethink. Reset. Recycle."²⁹ The campaign addresses the need to educate Florida residents on how to reduce single stream curbside recycling contamination. Plastic bags, cords, clothing and packaging are causing contamination problems that can shut down MRF operations and cause good loads of recyclables to become trash. The campaign also serves to remind Florida residents of the basics of curbside recycling: clean and dry aluminum and steel cans, plastic bottles and jugs, and paper and cardboard. DEP is also working on the following recycling options:

- Evaluating the implications of shifting from a weight-based recycling goal to sustainable materials management processes.
- Researching the concept of moving from a weight-based recycling goal of 75 percent by 2020, to market specific goals such as a food diversion goal or an organics recycling goal.
- Engaging Florida's state universities and the Florida Department of Education to review potential K-12 curriculum programs emphasizing waste reduction and recycling practices.
- Continuing to work with state agencies to identify recycling/cost saving measures specific to their operations.
- Providing counties not achieving the interim recycling goals with assistance in analyzing, planning, and executing opportunities to increase recycling.³⁰

²⁰ Section 403.7032, F.S.; Ch. 2008-227, s. 95, Laws of Fla.; see DEP, *Florida and the 2020 75% Recycling Goal, Volume I - Report*, 5 (2017), available at https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf.

²¹ DEP, *Recycling*, <http://www.dep.state.fl.us/waste/categories/recycling/default.htm> (last visited Oct. 29, 2019).

²² Section 403.706(2)(a), F.S.

²³ Section 403.706(2)(e), F.S.; see s. 403.705(3), F.S. DEP must evaluate and report biennially to the President of the Senate and the Speaker of the House on the state's success in meeting the solid waste recycling goal in s. 403.706(2), F.S.

²⁴ Section 403.706(2)(e), F.S.

²⁵ DEP, *Florida and the 2020 75% Recycling Goal, Volume I - Report*, 5 (2017), available at https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* at 11.

³⁰ *Id.*

A number of counties and municipalities have instituted single stream recycling programs.³¹ Single stream recycling programs allow all accepted recyclables to be placed in a single, curbside recycling cart, comingling materials from paper and plastic bottles to metal cans and glass containers. Single stream recycling programs have been marginally successful in providing curbside collection efficiency by increasing the amount of recyclables collected and residential participation. While there are many advantages to single stream recycling, it has not consistently yielded positive results for the recycling industry. The unexpected consequence of single stream recycling has been the collection of unwanted materials and poorly sorted recyclables, resulting in increased contamination originating in the curbside recycling cart.³²

Contamination hinders processing at MRFs when unwanted items are placed into recycling carts.³³ For example, plastic bags are often harmful to the automated equipment typically used to process and separate recyclable materials from single stream collections. While MRFs are equipped to handle some non-recyclable materials, excessive contamination can undermine the recycling process resulting in additional sorting, processing, energy consumption, and other increased costs due to equipment downtime, repair or replacement needs. In addition to increased recycling processing costs, contamination also results in poorer quality recyclables, and increased rejection and landfilling of unusable materials. Although some local governments have implemented successful single stream recycling programs with low contamination rates, contamination rates for other programs have continued to rise, in some case reaching contamination rates of more than 30-40 percent by weight.³⁴

Recycling Markets

Until 2017, China consumed over 50 percent of the recycled paper and plastic in the world, including 70 percent of the plastics collected for recycling in the U.S.³⁵ In 2018, China banned the import of 24 recyclable materials, such as post-consumer plastics and mixed paper, and also announced a 0.5 percent contamination standard for most recyclables not named in the ban.³⁶ The ban was later expanded to include post-industrial plastics and a variety of scrap metals, and China implemented pre-shipment inspection requirements for inbound loads of scrap material.³⁷ The ban has caused shipments of recyclables to other Southeast Asian countries to increase

³¹ *Id.* at 13.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ National Waste & Recycling Association, *Issue Brief: China's Changing Policies on Important Recyclables*, 1 (Apr. 2018), available at https://c.ymcdn.com/sites/wasterecycling.site-ym.com/resource/resmgr/files/issue_brief/China%27s_Changing_Policies_on.pdf; Cheryl Katz, *Piling Up: How China's Ban on Importing Waste Has Stalled Global Recycling*, Yale Environment 360 (March 7, 2019), <https://e360.yale.edu/features/piling-up-how-chinas-ban-on-importing-waste-has-stalled-global-recycling> (last visited Nov. 26, 2019).

³⁶ Resource Recycling, *From Green Fence to Red Alert: A China Timeline*, <https://resource-recycling.com/recycling/2018/02/13/green-fence-red-alert-china-timeline/> (last visited Oct. 29, 2019); National Waste & Recycling Association, *Issue Brief: China's Changing Policies on Important Recyclables*, 1 (Apr. 2018).

³⁷ *Id.*; see Resource Recycling, *China Reiterates Total Ban and Tries to Define "Solid Waste"* (Apr. 9, 2019), <https://resource-recycling.com/recycling/2019/04/09/china-reiterates-total-ban-and-tries-to-define-solid-waste/> (last visited Nov. 26, 2019). China is planning a total ban on virtually all recovered material imports.

dramatically, resulting in nations including Malaysia, Indonesia, Thailand, and Vietnam enacting policies restricting the import of recyclable materials.³⁸

China's recycling ban has created substantial challenges around the world for the solid waste and recycling industry.³⁹ The loss of the Chinese export markets has caused recyclable materials to be sent to landfills or burned.⁴⁰ China's ban and higher standards for contamination are leading to higher costs and lower revenues for the U.S. recycling industry.⁴¹ In Florida, local governments are struggling with issues such as rising costs of processing and high contamination rates.⁴² DEP reports that these changes in the markets create challenges for Florida as it tries to increase its recycling rates because future growth is dependent on healthy markets.⁴³ The increased supply of recyclable materials and decreased demand from end markets has resulted in a depression of commodities prices in the recycling industry.⁴⁴ In response, DEP has utilized state programs and engaged various agencies and stakeholders in efforts to develop and grow Florida's recycling markets.⁴⁵

Fiscally Constrained Counties

Section 218.67, F.S., defines "fiscally constrained counties" as:

- Each county entirely within a rural area of opportunity⁴⁶ as designated by the Governor pursuant to the Rural Economic Development Initiative in s. 288.0656, F.S.; or
- Each county for which the value of a mill will raise no more than \$5 million in revenue, based on the taxable value certified pursuant to the required local effort for school districts in s. 1011.62(4)(a)1.a., F.S., from the previous July 1.⁴⁷

³⁸ Resource Recycling, *From Green Fence to Red Alert: A China Timeline*; Christopher Joyce, *Where Will Your Plastic Trash Go Now That China Doesn't Want It?*, NPR (Mar. 13, 2019), <https://www.npr.org/sections/goatsandsoda/2019/03/13/702501726/where-will-your-plastic-trash-go-now-that-china-doesnt-want-it> (last visited Nov. 26, 2019).

³⁹ See Brooks et. al., *The Chinese Import Ban and Its Impact on Global Plastic Waste Trade*, SCIENCES ADVANCES (Jun. 20, 2019), available at <https://advances.sciencemag.org/content/advances/4/6/eaat0131.full.pdf>.

⁴⁰ Cheryl Katz, *Piling Up: How China's Ban on Importing Waste Has Stalled Global Recycling*, Yale Environment 360 (March 7, 2019), <https://e360.yale.edu/features/piling-up-how-chinas-ban-on-importing-waste-has-stalled-global-recycling> (last visited Nov. 26, 2019).

⁴¹ National Waste & Recycling Association, *Issue Brief: China's Changing Policies on Important Recyclables*, 1-2 (Apr. 2018), available at https://c.yimcdn.com/sites/wasterecycling.site-ym.com/resource/resmgr/files/issue_brief/China%27s_Changing_Policies_on.pdf.

⁴² Waste Dive, *How Recycling is Changing in All 50 States* (June 5, 2019), <https://www.wastedive.com/news/what-chinese-import-policies-mean-for-all-50-states/510751/> (last visited Nov. 26, 2019).

⁴³ DEP, *Florida and the 2020 75% Recycling Goal, Volume I - Report*, 15 (2017), available at https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf (last visited Oct. 29, 2019).

⁴⁴ *Id.*

⁴⁵ *Id.* at 15-17.

⁴⁶ See s. 288.0656(2), F.S. A rural area of opportunity is a rural community (such as counties with a population of 75,000 or fewer) or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe/chronic distress, or a natural disaster, or which presents a unique economic development opportunity of regional impact.

⁴⁷ Section 218.67(1), F.S.

The Department of Revenue currently identifies 29 fiscally constrained counties pursuant to s. 218.67(1), F.S.⁴⁸

Recycling Organizations in Florida

In addition to the efforts of state and local government, there is a broad range of organizations working to improve recycling rates in Florida. These include:

- The Hinkley Center for Solid and Hazardous Waste Management - created by the Solid Waste Management Act of 1988, primarily funded by DEP through the Solid Waste Management Trust Fund, and hosted at the University of Florida, the Center facilitates research and provides information and technical assistance to develop solutions for solid and hazardous waste management.⁴⁹
- The Florida Recycling Partnership - a coalition of businesses and associations dedicated to improving Florida's recycling rates.⁵⁰
- Keep Florida Beautiful - a volunteer-based nonprofit working with over 40 county and city affiliates to advance increased recycling and other environmental efforts through community action and education.⁵¹
- The Florida Beverage Association - the state trade association of non-alcoholic beverage producers, marketers, bottlers, and distributors.⁵²
- The Southern Waste Information eXchange, Inc. (SWIX) - a nonprofit clearinghouse and repository for businesses and government agencies looking for information on many different topics regarding waste management. SWIX also conducts clean-ups and recycling events.⁵³
- The National Waste and Recycling Association - the trade association representing private-sector U.S. waste and recycling companies, as well as the manufacturers and service providers that do business with those companies.⁵⁴ This organization has a Florida chapter.
- Recycle Florida Today, Inc. - a nonprofit professional association comprised of individuals engaged in the business of recycling, which works to advance recycling in Florida.⁵⁵

III. Effect of Proposed Changes:

Section 1 amends s. 403.706, F.S., which contains recycling goals required for county government recycling programs.

The bill exempts from the required county recycling goals any fiscally constrained county, as defined in s. 218.67(1), F.S. This exemption expires on July 1, 2035.

⁴⁸ See Florida Department of Revenue, Property Tax Oversight, *Fiscally Constrained Counties*, available at <http://floridarevenue.com/property/Documents/fcco081210.pdf>.

⁴⁹ Hinkley Center for Solid and Hazardous Waste Management, *About the Hinkley Center*, <http://www.hinkleycenter.org/about-the-center.html> (last visited Dec. 5, 2019); see ch. 88-130, Laws of Fla.

⁵⁰ Florida Recycling Partnership, *About Us*, <https://flrecycling.org/about-us/> (last visited Dec. 5, 2019).

⁵¹ Keep Florida Beautiful, *Mission*, <https://www.keepfloridabeautiful.org/about-us/mission> (last visited Dec. 5, 2019).

⁵² The Florida Beverage Association, *About Us*, <https://flabev.org/about-us> (last visited Dec. 5, 2019).

⁵³ Southern Waste Information eXchange, Inc., *About SWIX*, <http://swix.ws/> (last visited Dec. 5, 2019).

⁵⁴ National Waste and Recycling Association, *About Us*, <https://wasterecycling.org/page/AboutUs> (last visited Dec. 5, 2019).

⁵⁵ Recycle Florida Today, *About Us*, <https://recyclefloridatoday.org/about-us/> (last visited Dec. 5, 2019).

The bill creates the Florida Recycling Working Group within the Department of Environmental Protection (DEP). The working group must be composed of eleven members, with each of the following eleven organizations appointing one representative member from within their respective organizations:

- DEP.
- The University of Florida's Engineering School of Sustainable Infrastructure and Environment.
- The Hinkley Center for Solid and Hazardous Waste Management.
- The Florida League of Cities.
- The Florida Association of Counties.
- The Florida Recycling Partnership.
- Keep Florida Beautiful.
- The Florida Beverage Association.
- Southern Waste Information eXchange, Inc.
- The Florida Chapter of the National Waste and Recycling Association.
- Recycle Florida Today, Inc.

The bill requires the working group to meet at least three times. A chair and vice chair must be elected by quorum. A quorum will consist of a majority of the members. The chair of the working group must preside at all meetings and call meetings as often as necessary to carry out the working group's responsibilities. DEP must keep a complete record of the proceedings of each meeting, including the names of the members present at each meeting and the actions taken. The records are public records pursuant to ch. 119, F.S.

The bill requires the working group to compile a report recommending programs and statutory changes necessary for achieving future recycling goals based on current progress toward achieving the goals required of county recycling programs. The working group must submit the report to the President of the Senate and the Speaker of the House of Representatives by July 1, 2021.

The subsection creating the Florida Recycling Working Group expires on July 1, 2021.

Section 2 states that the bill shall take effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires DEP to administer and participate in the Florida Recycling Working Group, including producing a report to the Legislature. These responsibilities may cause DEP to incur additional costs.

The bill exempts fiscally constrained counties from required recycling goals for county recycling programs. This may have an indeterminate, positive fiscal impact on fiscally constrained counties in the short term.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.706 of the Florida Statutes.

IX. Additional Information:

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

CS by Environment and Natural Resources Committee on December 9, 2019:

- Removes all changes to the timeline regarding the goals required of county recycling programs, including DEP's reporting requirements related to the goals, but retains the exemption for fiscally constrained counties through July 1, 2035.

- Creates within DEP the Florida Recycling Working Group, that must produce a report recommending programs and statutory changes necessary for achieving future recycling goals based on current progress. The language establishes the working group's composition, administrative procedures, and obligations for submitting its report to the Legislature by July 1, 2021. The working group is repealed on July 1, 2021.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
