

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: SB 724

INTRODUCER: Senator Albritton

SUBJECT: Local Government Recycling Programs

DATE: December 6, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schreiber	Rogers	EN	Pre-meeting
2.	_____	_____	CA	_____
3.	_____	_____	AP	_____

I. Summary:

SB 724 extends by four years the required goals for county recycling programs to recycle 75% of their recyclable solid waste. The bill amends the requirements for the Department of Environmental Protection to report to the Legislature on changes needed to achieve the recycling goals. The bill exempts fiscally constrained counties from the required recycling goals.

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 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

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.*

⁴ Section 403.703(31), F.S.

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
- 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

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.

¹² Section 403.706(6), F.S.

¹³ *Id.*

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 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

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.

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.

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

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

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.*

³¹ *Id.* at 13.

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

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.

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).

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

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

III. Effect of Proposed Changes:

Section 1 amends s. 403.706(2), F.S., which contains the recycling goals required for county government recycling programs.

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.

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

The bill changes the date, from December 31, 2020 to December 31, 2024, that county programs must have as their goal date by which they will recycle 75% of their recyclable solid waste. It extends until January 1, 2025 the date by which county governments must reach their recycling goals before the Department of Environmental Protection (DEP) is authorized to direct counties not meeting their goals to develop expanded recycling programs.

The bill requires DEP to submit by January 1, 2021 a report to the President of the Senate and the Speaker of the House identifying any additional programs or statutory changes needed to achieve the goals established in the bill. The bill deletes existing requirements for DEP to submit reports to the Legislature 30 days prior to the beginning of a regular session when the existing recycling goals are not met.

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

Sections 2, 3, and 4 reenact ss. 403.7049(5), 403.705(2)(c) and (3), and 403.7145(3), F.S., respectively, for the purpose of incorporating the amendment made by the bill to s. 403.706, F.S.

Section 5 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 extends by four years the required recycling goals for county recycling programs, extends by four years DEP's authorization to direct counties not achieving the goals to expand their recycling programs, and exempts from the required recycling goals fiscally constrained counties. These effects may result in counties spending less on recycling activities, at least in the short term. Therefore, the bill may have an indeterminate, positive fiscal impact on the government sector.

VI. Technical Deficiencies:

None.

VII. Related Issues:

While the bill changes the year for the 75 percent recycling goal in s. 403.706(2)(a), F.S., from 2020 to 2024, the bill does not change the long-term statewide goal of recycling 75 percent of municipal solid waste by 2020 in s. 403.7032(2), F.S. Additionally, although the bill deletes reporting requirements for DEP that are based on the recycling goals in s. 403.706(2), F.S., DEP must still evaluate and report biennially to the President of the Senate and the Speaker of the House of Representatives on the state's success in meeting such goals, pursuant to s. 403.705(3), F.S.

VIII. Statutes Affected:

This bill substantially amends section 403.706 of the Florida Statutes.
This bill reenacts the following sections of the Florida Statutes: 403.7049(5), 403.705(2)(c) and (3), and 403.7145(3).

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.