

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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: CS/SB 1156

INTRODUCER: Environment and Natural Resources Committee and Senator Stewart

SUBJECT: Comprehensive Waste Reduction and Recycling Plan

DATE: February 21, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carroll</u>	<u>Rogers</u>	<u>EN</u>	<u>Fav/CS</u>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	<u>Recommend: Favorable</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1156 directs the Department of Environmental Protection (DEP) to develop a comprehensive waste reduction and recycling plan by July 1, 2023, and to convene a technical assistance group within the DEP to develop the plan. The bill provides minimum criteria for the plan and directs the DEP to provide a report to the President of the Senate and the Speaker of the House of Representatives upon its completion.

The DEP may incur costs in convening a technical assistance group and developing a comprehensive waste reduction and recycling plan. These costs are indeterminate.

II. Present Situation:

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 2020.¹ The DEP has

¹ Section 403.7032, F.S.; Ch. 2008-227, s. 95, Laws of Fla.; see Department of Environmental Protection (DEP), *Final Report, Florida and the 2020 75% Recycling Goal*, 2 (2020), available at <https://floridadep.gov/waste/permitting-compliance-assistance/documents/75-recycling-goal-final-report> (last visited Jan. 31, 2022).

established numerous programs and initiatives to reach that goal.² In 2010, the Legislature established the interim goals that counties must pursue leading up to 2020.³

In those years when the recycling rate does not meet the statutory thresholds for these interim goals, the DEP must provide a report to the President of the Senate and the Speaker of the House of Representatives.⁴ This report must identify those additional programs or statutory changes needed to achieve the state's recycling goals.⁵ 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 2017.⁶ Since 2016, Florida's statewide recycling rate exhibited a general decline. In 2020, when the DEP released the final report "Florida and the 2020 75% Recycling Goal," the recycling rate was only 50 percent, falling short of the 75 percent goal.⁷

The report states that in 2020 alone, Florida residents and tourists generated municipal solid waste equivalent to over two tons per resident.⁸ That is above the national average of about one ton per resident per year, since Florida's municipal solid waste calculations per resident do not include the number of tourists, as measured by the United States Environmental Protection Agency and other states. There is no universal methodology for measuring progress toward recycling goals, which makes it difficult to compare states' recycling rates. Florida's recycling goal includes only municipal solid waste, meaning that waste from industrial, agricultural, mining operations, and wastewater treatment sludge, is excluded from the calculations.⁹ The goal is also measured by weight, which pushed counties to recycle heavy materials, rather than traditional recyclables like metal cans and plastic bottles.¹⁰

As published in the report, the Florida Recycling Workgroup and a group of local governments have provided recycling ideas and recommendations, which include:

- Replacing the weight-based 75 percent goal;
- Transitioning to a goal or set of goals that are better indicators of program performance and desired environmental and economic outcomes; and
- Focusing on developing recycling markets, education and outreach, and funding and incentives to support local government recycling efforts.¹¹

In the report, the DEP recommends convening a technical assistance group that will include the Florida Recycling Workgroup, local governments, and any interested parties to develop a comprehensive waste reduction and recycling plan for Florida. The plan will implement stakeholder recommendations by:

² DEP, *Recycling*, <http://www.dep.state.fl.us/waste/categories/recycling/default.htm> (last visited Jan. 27, 2022).

³ Section 403.706(2)(a), F.S.

⁴ Section 403.706(2)(e), F.S.; *see s. 403.705(3)*, F.S. The 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.

⁵ Section 403.706(2)(e), F.S.

⁶ DEP, *Final Report, Florida and the 2020 75% Recycling Goal* at 2.

⁷ *Id.*

⁸ *Id.* at 8.

⁹ *Id.*

¹⁰ *Id.* at 3.

¹¹ *Id.* at 4.

- Identifying a set of recycling goals that use sustainable materials management and waste diversion concepts;
- Developing objectives and proposing a three-year plan to develop a recycling market, education and outreach, and local government assistance; and
- Proposing statutory language to implement the revised recycling goals and strategies.¹²

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.¹³ Counties may charge reasonable fees for the handling and disposal of solid waste at their facilities.¹⁴ 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.¹⁵ 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.”¹⁶

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, 2020.¹⁷ 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; or
- Yard trash.¹⁸

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.¹⁹ Counties and municipalities are encouraged to form cooperative arrangements for implementing recycling

¹² *Id.*

¹³ 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.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Section 403.703(31), F.S.

¹⁷ Section 403.706(2)(a), F.S. These are interim goals to help Florida reach the goal of recycling at least 75 percent of municipal solid waste by 2020; Ch. 2010-143, s. 7, Laws of Fla.; *see also* s. 403.7032(2), F.S.

¹⁸ Section 403.706(2)(f), F.S.

¹⁹ Section 403.706(3), F.S.

programs.²⁰ 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.²¹ To assess progress, counties must provide information on their solid waste management programs and recycling activities to the DEP by April 1 of each year.²²

“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.²³ The term includes yard trash but does not include solid waste from industrial, mining, or agricultural operations. The DEP may reduce or modify the municipal solid waste recycling goal that a county is required to achieve if the county demonstrates to the 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.²⁴

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.²⁵

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.²⁶ 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.²⁷ 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.²⁸ 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.²⁹

A local government may not:

²⁰ Section 403.706(2)(a), F.S.

²¹ Section 403.706(4), F.S.

²² Section 403.706(7), F.S.; Fla. Admin. Code R. 62-716.450.

²³ Section 403.706(5), F.S.

²⁴ Section 403.706(6), F.S.

²⁵ *Id.*

²⁶ Section 403.706(9), F.S.

²⁷ Section 403.706(21), F.S.

²⁸ *Id.*

²⁹ Section 403.706(21), F.S.

- 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.³⁰

Local governments may require a commercial establishment to source-separate the recovered materials generated on the premises.³¹

Local Government Recycling Assistance

In 1988, the Solid Waste Management Act required counties to initiate recycling programs to address the growing costs and environmental problems associated with solid waste disposal in the state. To aid counties in setting up recycling programs, the Legislature established the Recycling and Education Grant Program. Under the program, counties received funds for initial capital costs, operations, recycling education, market development, and special projects. The program sunset in 2001. The report provides that the technical assistance group will evaluate the benefits and problems of the Recycling and Education Grant Program, make a recommendation to reinstate the program, or consider other means to provide recycling assistance to local governments.³²

Sustainable Materials Management and Waste Diversion

Sustainable materials management is a term for alternative approaches to recycling that recognize the differences among waste components with respect to environmental and resource outcomes. Sustainable materials management focuses on using and reusing materials more productively over their life cycles.³³

Waste diversion, or waste reduction, is already an important part of the state's municipal solid waste management system. Waste diversion is the amount of material that is reduced, reused, prevented, and recycled, per capita and can be measured by the amount of waste not being disposed of in landfills. In setting a waste diversion goal, it is important to determine whether the goal is a state or local goal, or both; the percentage waste reduction expected; and the base year, so that the amount of waste disposed can be compared over time.³⁴

Recycling Education and Outreach

Education on the types of recycling service available, how materials are collected, and what materials are accepted is important for a successful recycling program. Because recycling

³⁰ Section 403.7046(3), F.S.

³¹ Section 403.7046(3)(a), F.S.

³² DEP, *Final Report, Florida and the 2020 75% Recycling Goal* at 5.

³³ *Id.* at 4.

³⁴ *Id.*

programs in the state vary significantly, education should be tailored to local recycling programs.³⁵

Currently, the DEP operates several education programs, including:

- The Florida Food Waste Prevention Week, which focuses on engagement with local municipalities, universities, national food recovery networks, and the hospitality industry to raise awareness about food waste;
- Phase Three of the Rethink.Reset.Recycle. Program, which focuses on providing counties and municipalities with a variety of customized digital products illustrating correct preparation of recyclables prior to disposing of them; and
- The Recycling Recognition Program, which encourages private businesses, institutions, schools, organizations, and the public to increase recycling by setting recycling goals.³⁶

The report provides that the technical assistance group will propose an education and outreach approach that evaluates statewide solutions but is customized for local needs, including a possible application for mobile devices that provides recycling information based on location.³⁷

Recycling Market Challenges

Until 2017, China consumed about 70 percent of the recycled paper and plastic in the world, including millions of tons of recycling from the United States.³⁸ 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.³⁹ 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.⁴⁰ 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.⁴¹

³⁵ *Id.*

³⁶ *Id.* at 20, 21.

³⁷ *Id.* at 5.

³⁸ National Waste & Recycling Association, *Issue Brief: China's Changing Policies on Important Recyclables*, 1 (Apr. 2018), available at

https://c.yimcdn.com/sites/wasterecycling.siteym.com/resource/resmgr/files/issue_brief/China%27s_Changing_Policies_on.pdf (last visited Jan. 27, 2022); 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 Jan. 27, 2022).

³⁹ 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 Jan. 27, 2022).

⁴⁰ *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 Jan. 27, 2022). China is planning a total ban on virtually all recovered material imports.

⁴¹ 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?* (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 Jan. 27, 2022).

In Florida, local governments struggle with issues like the rising costs of processing and high contamination rates.⁴² Many local governments use single stream recycling programs.⁴³ These 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.⁴⁴ While single stream recycling programs have been successful in increasing residential participation, they have hurt recycling markets by increasing contamination.⁴⁵

The closure of foreign export markets led to a disruption in the United States recycling industry.⁴⁶ In Florida, recycling haulers and material recovery facilities compensated for this change by partnering with state and municipalities to focus on eliminating contamination and by shifting overall sales to domestic markets.⁴⁷ Because of this shift, the average price of mixed recyclables dropped from \$60/ton in 2018 to \$47/ton in 2020. There were fluctuations in the price of mixed recyclables during that two-year period due to the expansion of domestic markets, however the final average reflected a 21 percent decrease.⁴⁸

III. Effect of Proposed Changes:

Section 1 amends s. 403.7032, F.S., to direct the DEP to develop a comprehensive waste reduction and recycling plan by July 1, 2023, based on recommendations from the DEP’s “Florida and the 2020 75% Recycling Goal Final Report.” The bill requires the DEP to convene a technical assistance group within the DEP to develop the plan.

The bill provides that the plan must:

- Identify recycling goals based on sustainable materials management and waste diversion.
- Include a three-year plan to implement the following strategies:
 - Recycling education and outreach. The DEP must propose statewide solutions to provide local recycling information and education.
 - Local government recycling assistance. The DEP must evaluate the benefits and challenges of the former state Recycling and Education Grant Program and provide recommendations for reinstating the program or considering other means of providing assistance to local governments.
 - Recycling materials market development. The DEP must consider and recommend plans to develop and promote markets for recycling materials.

The bill directs the DEP to provide a report to the President of the Senate and the Speaker of the House of Representatives upon completion of the plan. The bill requires that the report include

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 Jan. 27, 2022); DEP, *Rethink, Reset, Recycle*, <http://floridarecycles.org/#:~:text=Floridians%20are%20contaminating%20their%20home%20recycling%20bins%20with,piz%20boxes%2C%20thin%20plastic%20packaging%20and%20much%20more> (last visited Jan. 27, 2022).

⁴³ DEP, *Final Report, Florida and the 2020 75% Recycling Goal* at 13.

⁴⁴ DEP, *Volume I – Report, Florida and the 2020 75% Recycling Goal*, 13 (2017), available at https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf (last visited Jan. 27, 2022).

⁴⁵ DEP, *Final Report, Florida and the 2020 75% Recycling Goal* at 13.

⁴⁶ 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 Jan. 27, 2022).

⁴⁷ DEP, *Final Report, Florida and the 2020 75% Recycling Goal* at 13.

⁴⁸ *Id.*

an update on the status of the plan and any recommendations for statutory changes necessary to achieve the recycling goals or strategies identified in the plan.

Section 2 provides an effective date of July 1, 2022.

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 DEP may incur costs in convening a technical assistance group and developing a comprehensive waste reduction and recycling plan.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.7032 of the Florida Statutes.

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

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

CS by Environment and Natural Resources on February 1, 2022:

The committee substitute:

- Directs the Department of Environmental Protection (DEP) to develop a comprehensive waste reduction and recycling plan by July 1, 2023, and to convene a technical assistance group within the DEP to develop the plan;
- Provides minimum criteria for the plan; and
- Directs the DEP to provide a report to the President of the Senate and the Speaker of the House of Representatives upon completion of the plan.

B. Amendments:

None.