

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 36

INTRODUCER: Senator Stewart

SUBJECT: Comprehensive Waste Reduction and Recycling Plan

DATE: December 5, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barriero</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2.	_____	_____	<u>AEG</u>	_____
3.	_____	_____	<u>FP</u>	_____

I. Summary:

SB 36 directs the Department of Environmental Protection (DEP) to develop a comprehensive waste reduction and recycling plan by July 1, 2025, and convene a technical assistance group within DEP to help develop the plan. The bill provides minimum criteria for the plan and directs DEP to provide a report to the President of the Senate and the Speaker of the House of Representatives upon its completion.

II. Present Situation:

Florida's Recycling Goal

In 2008, the Legislature set a statewide goal to recycle at least 75 percent of municipal solid waste (MSW) by 2020.¹ The goal includes only MSW² and is measured by weight.³ The Florida Department of Environmental Protection (DEP) established numerous programs and initiatives to reach the 75 percent recycling goal.⁴ In 2010, the Legislature amended s. 403.706, F.S., to require counties to implement local recycling programs with the following interim goals: 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 While Florida achieved the interim goals for 2012 and 2014,

¹ Section 403.7032, F.S.

² MSW is 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. Section 403.706(5), F.S. MSW also includes yard trash but does not include solid waste from industrial, mining, or agricultural operations. *Id.*

³ Department of Environmental Protection (DEP), *Florida and the 2020 75% Recycling Goal: Final Report*, 3, 8 (2020), available at <https://floridadep.gov/waste/permitting-compliance-assistance/documents/75-recycling-goal-final-report>.

⁴ DEP, *Recycling*, <http://www.dep.state.fl.us/waste/categories/recycling/default.htm> (last visited Dec. 5, 2023).

⁵ 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.

the state's recycling rate for 2016 was 56 percent, falling short of the 60 percent goal.⁶ Between 2016 and 2020, Florida's statewide recycling rate continued to decline, with a rate of 52 percent in 2019 and 50 percent in 2020.⁷ Only three of Florida's 36 large counties—Charlotte, Lee, and Pinellas—successfully met the 75 percent recycling goal by 2020.⁸ However, there is evidence that recycling rates are rebounding: the single-family recycling participation rate increased 4 percent from 2020 to 2022.⁹ Commercial recycling participation rates also showed a slight increase (approximately 1 percent) during the same timeframe.¹⁰

Local Government Solid Waste and Recycling Responsibilities

Each Florida county has the authority and responsibility to provide for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the county.¹¹ Counties may charge reasonable fees for the handling and disposal of solid waste at their facilities.¹² Municipalities are responsible for collecting and transporting solid waste from their jurisdictions to a solid waste disposal facility operated by a county or county contractor.¹³ Local governments are also authorized to provide for the collection of recyclable materials.¹⁴ A market must exist for the recyclable materials, and the local government must specifically intend for them to be recycled.¹⁵

As discussed above, counties are required to implement recycling programs that include the statutory interim goals established in s. 403.706(2)(a), F.S.¹⁶ 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;

⁶ DEP, *Florida and the 2020 75% Recycling Goal: Final Report* at 2, available at <https://floridadep.gov/waste/permitting-compliance-assistance/documents/75-recycling-goal-final-report>.

⁷ DEP, *Florida and the 2020 75% Recycling Goal: Final Report* at 6. Notably, prior to the implementation of the 75 percent recycling goal, Florida's recycling rate, which was calculated based on recycling traditional materials, was 30 percent. *Id.* If the same methodology was applied to 2020, the recycling rate would be only 25 percent. *Id.*

⁸ *Id.* at 9. "Large counties" are those with a population of over 100,000. *Id.*

⁹ DEP, *2022 Single-Family Participation in Recycling* (2023), available at https://floridadep.gov/sites/default/files/2022_Single_Family_Participation.pdf; DEP, *2021 Single-Family Participation in Recycling* (2022), available at <https://floridadep.gov/sites/default/files/2021%20Single%20Family%20Recycling%20Participation%20in%20Florida.pdf>; DEP, *2020 Single-Family Participation in Recycling* (2021), available at <https://floridadep.gov/sites/default/files/2020%20Single-Family%20Participation%20in%20Recycling.pdf>.

¹⁰ DEP, *2022 Commercial Participation in Recycling* (2023), available at https://floridadep.gov/sites/default/files/2022_Commercial_Participation.pdf; DEP, *2021 Commercial Participation in Recycling* (2022), available at <https://floridadep.gov/sites/default/files/2021%20Commercial%20Recycling%20Participation%20in%20Florida.pdf>; DEP, *2020 Commercial Participation in Recycling* (2021), available at <https://floridadep.gov/sites/default/files/2020%20Commercial%20Participation%20in%20Recycling.pdf>.

¹¹ Section 403.706(1), F.S. Municipalities are also authorized to construct and operate solid waste disposal facilities if certain statutory requirements are met. Fla. Admin. Code Ch. 62-701.

¹² *Id.*

¹³ *Id.*

¹⁴ Section 403.706(21), F.S.

¹⁵ *Id.*

¹⁶ Section 403.706(2)(a), F.S.

- Aluminum cans;
- Steel cans;
- Glass;
- Plastic bottles;
- Cardboard;
- Office paper; and
- Yard trash.¹⁷

In addition, 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.¹⁸ Counties and municipalities are encouraged to form cooperative arrangements for implementing recycling programs,¹⁹ and must enter into negotiations with a franchisee who is operating to exclusively collect solid waste within a specified service area for a county or municipality.²⁰

Certain activities are eligible for special credit towards achieving a county's recycling goals, including the use of solid waste as 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 DEP by April 1 of each year.²²

DEP may reduce or modify a county's recycling goal if the county demonstrates 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.²³

However, 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.²⁴

Local governments can require all residential properties, multifamily dwellings, apartment complexes, and industrial, commercial, and institutional establishments to create programs for the separation of recyclable materials designated by the local government.²⁵ Local governments

¹⁷ Section 403.706(2)(f), F.S.

¹⁸ Section 403.706(3), F.S.

¹⁹ Section 403.706(2)(a), F.S.

²⁰ Section 403.706(9), 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(6), F.S.

²⁴ *Id.*

²⁵ Section 403.706(21), F.S. Such ordinances may include, but are not limited to, prohibiting any person from knowingly disposing of recyclable materials and ensuring the collection of recovered materials as necessary to protect public health and safety. *Id.*

can also require a commercial establishment to source-separate the recovered materials generated on the premises.²⁶ However, a local government may not:

- Require a commercial establishment that generates source-separated recovered materials to sell its recovered materials to the local government or to a facility designated by the local government;
- Restrict such a generator’s right to sell 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.²⁷

DEP’s Recycling Report

DEP was required to submit a report to the President of the Senate and the Speaker of the House of Representatives in years when the interim recycling goals established in s. 403.706(2)(a), F.S., were not met.²⁸ These reports had to identify additional programs or statutory changes needed to achieve the recycling goals.²⁹ In 2020, DEP released its final report titled “Florida and the 2020 75% Recycling Goal.”³⁰ The report explains that in 2020 alone, the amount of MSW generated in Florida was equivalent to over two tons per resident—approximately twice the national average.³¹ However, there is no universal methodology for measuring progress toward recycling goals, making it difficult to compare states’ recycling rates. Moreover, Florida’s MSW calculations do not account for tourists—while calculations by the U.S. Environmental Protection Agency and other states do—thereby inflating the amount of MSW generated “per resident.”³²

In its final report, DEP recommends convening a technical assistance group (TAG) to develop a comprehensive waste reduction and recycling plan for Florida. The TAG, if convened, would include the Florida Recycling Workgroup, local governments, and other interested parties, and the comprehensive plan would implement stakeholder recommendations by:

- Identifying a set of recycling goals that use sustainable materials management³³ and waste diversion³⁴ concepts;

²⁶ Section 403.7046(2)(a), F.S.

²⁷ Section 403.7046(2), F.S.

²⁸ 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.

²⁹ Section 403.706(2)(e), F.S.

³⁰ DEP, *Florida and the 2020 75% Recycling Goal: Final Report* at 2, available at <https://floridadep.gov/waste/permitting-compliance-assistance/documents/75-recycling-goal-final-report>.

³¹ *Id.* at 8.

³² *Id.*

³³ 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. *Id.* at 4.

³⁴ Waste diversion is the process of diverting waste from landfills; it is the amount of material that is reduced, reused, and/or recycled per capita and can be measured by the amount of waste not being disposed of in landfills. Waste diversion reduces disposal costs and the burden on landfills. United States Environmental Protection Agency (EPA), *Waste Diversion at EPA*, <https://www.epa.gov/greeningepa/waste-diversion-epa> (last visited Oct. 25, 2023); DEP, *Florida and the 2020 75% Recycling Goal: Final Report* at 4.

- 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.³⁵

DEP's final report also provides recommendations from the Florida Recycling Workgroup and a group of local governments, including:

- Replacing the current 75 percent weight-based goal with a goal or set of goals that are better indicators of program performance and desired environmental and economic outcomes;³⁶
- Using sustainable materials management to prioritize which materials to recycle based on environmental metrics and market availability and setting recycling goals for these specific materials; and
- Focusing on three strategies: education and outreach, funding and incentives to support local government recycling efforts, and developing recycling markets.³⁷

Recycling Education and Outreach

Education on the types of recycling services available, how materials are collected, and which materials are accepted is important for a successful recycling program. Because recycling programs within the state vary significantly, education should be tailored to local recycling programs.³⁸

Currently, 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.³⁹

DEP's final report explains that the TAG, if convened, would 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.

Local Government 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

³⁵ DEP, *Florida and the 2020 75% Recycling Goal: Final Report* at 4, available at <https://floridadep.gov/waste/permitting-compliance-assistance/documents/75-recycling-goal-final-report>.

³⁶ *Id.* at 4. There is a consensus in Florida's recycling industry (as well as other states and at the federal level) that using a weight-based goal does not result in efficient or effective recycling. *Id.* at 6.

³⁷ *Id.* at 4.

³⁸ DEP, *Florida and the 2020 75% Recycling Goal: Final Report* at 4.

³⁹ *Id.* at 20-21.

capital costs, operations, recycling education, market development, and special projects. The program sunset in 2001.

In its final report, DEP recommends that the TAG evaluate the benefits and problems of the now defunct Recycling and Education Grant Program, make a recommendation to reinstate the program, or consider other means to provide recycling assistance to local governments.⁴⁰

Recycling Market Development

In order for the recycling industry to operate efficiently and provide reasonable returns on investments, there must be a market for finished goods that are manufactured from recycled materials. When the markets for these finished goods increase, the demand for recycled materials will increase, driving up profitability and incentivizing increased investments in the collection, sorting, processing, and manufacturing sectors.⁴¹

To increase markets for recyclable materials, DEP recommends in its final report that the following be considered when developing the comprehensive recycling plan:

- Tax incentives for usage of recycled materials as feed stocks in manufacturing processes;
- Tax incentives and credits to support materials recovery plant upgrades;
- Public/private partnerships to invest in new processing technologies;
- Investments in expansion of Recycling Business Assistance Center⁴² activities;
- End-user purchase rebates for Florida Certified Compost; and
- Preference programs to use and purchase products made from recycled content material.⁴³

III. Effect of Proposed Changes:

Section 1 amends s. 403.7032, F.S., to direct the Department of Environmental Protection (DEP) to develop a comprehensive waste reduction and recycling plan by July 1, 2025 based on recommendations from DEP’s “Florida and the 2020 75% Recycling Goal: Final Report.” The bill requires DEP to convene a technical assistance group within DEP to help develop the plan.

The bill provides that the plan must:

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

⁴⁰ DEP, *Florida and the 2020 75% Recycling Goal: Final Report* at 5, available at <https://floridadep.gov/waste/permitting-compliance-assistance/documents/75-recycling-goal-final-report>.

⁴¹ *Id.* at 5.

⁴² The Recycling Business Assistance Center was established in 2010 pursuant to s. 403.7032(5), F.S., to coordinate between state agencies and the private sector to develop new markets for recyclable materials locally and globally. DEP, *Recycling Business Assistance Center*, <https://floridadep.gov/waste/waste-reduction/content/recycling-business-assistance-center> (last visited Oct. 25, 2023).

⁴³ DEP, *Florida and the 2020 75% Recycling Goal: Final Report* at 5.

- Recycling materials market development: DEP must consider and recommend plans to develop and promote markets for recycling materials.

The bill directs DEP to provide a report to the President of the Senate and the Speaker of the House of Representatives upon completion of the comprehensive waste reduction and recycling plan. The bill requires that the report include 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, 2024.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Environmental Protection 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 s. 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.)

None.

B. Amendments:

None.

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