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LEGISLATIVE ACTION

Senate

House

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Floor: WD

04/29/2025 12:27 PM

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Senator Martin moved the following:

1       **Senate Amendment to Amendment (397706) (with title**  
2 **amendment)**

3  
4       Delete lines 60 - 301

5 and insert:

6 of the State Constitution and, when s. 403.706(21) ~~s.~~  
7 ~~403.706(19)~~ applies, means a special district or other entity.

8       (22) ~~(21)~~ "Municipality," or any like term, means a  
9 municipality created pursuant to general or special law  
10 authorized or recognized pursuant to s. 2 or s. 6, Art. VIII of  
11 the State Constitution and, when s. 403.706(21) ~~s. 403.706(19)~~



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applies, means a special district or other entity.

(36)~~(35)~~ "Solid waste" means sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. Recovered materials as defined in subsection (29) ~~(28)~~ and post-use polymers as defined in subsection (25) ~~(24)~~ are not solid waste.

Section 2. Section 403.7033, Florida Statutes, is amended to read:

403.7033 Preemption of regulation for auxiliary containers  
~~Departmental analysis of particular recyclable materials. The Legislature finds that prudent regulation of recyclable materials is crucial to the ongoing welfare of Florida's ecology and economy. As such, the Department of Environmental Protection shall review and update its 2010 report on retail bags analyzing the need for new or different regulation of auxiliary containers, wrappings, or disposable plastic bags used by consumers to carry products from retail establishments. The updated report must include input from state and local government agencies, stakeholders, private businesses, and citizens and must evaluate the efficacy and necessity of both statewide and local regulation of these materials. To ensure consistent and effective implementation, the department shall submit the updated report with conclusions and recommendations to the Legislature no later than December 31, 2021. Until such~~



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~~time that the Legislature adopts the recommendations of the  
department,~~

(1) The regulation of auxiliary containers is expressly  
preempted to the state. A local government, local governmental  
agency, or state governmental agency may not enact or enforce  
any rule, regulation, or ordinance regarding the use,  
disposition, sale, prohibition, restriction, or tax of such  
auxiliary containers unless explicitly permitted by statute.

(2) Rules, regulations, or ordinances restricting the use  
of glass auxiliary containers within the boundaries of any  
public beach are explicitly permitted.

(3) The Division of Recreation and Parks of the Department  
of Environmental Protection may regulate auxiliary containers  
within state parks consistent with its grant of authority in s.  
258.004, wrappings, or disposable plastic bags.

Section 3. Present subsections (2) through (23) of section  
403.706, Florida Statutes, are redesignated as subsections (4)  
through (25), respectively, new subsections (2) and (3) are  
added to that section, and present subsections (4), (6), (7),  
and (20) of that section are amended, to read:

403.706 Local government solid waste responsibilities.—

(2) A local government may not issue a construction permit  
pursuant to this section for a new solid waste disposal facility  
that uses an ash-producing incinerator or for a waste-to-energy  
facility, if the proposed location of such facility is sited  
within a 1-mile radius of any school or any property zoned for  
residential use within that same county which has a density of  
one or more dwelling units per acre. The 1-mile radius must be  
measured from the stack of the facility. This subsection applies



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only to a county as defined in s. 125.011(1).

(3) A local government may not issue a construction permit pursuant to this section for the expansion of any existing landfill that is located within a 1-mile radius of any property zoned residential unless a feasibility study is conducted before issuance of the permit.

(a) The feasibility study must:

1. Identify potential alternatives to expanding the landfill, such as waste-to-energy technologies and processes that could be used to reduce greenhouse gas emissions and dependence on the landfill, including, but not limited to, anaerobic digestion, plasma arc technology, and mixed waste processing.

2. Evaluate the financial costs of using such technologies and processes and the benefits of local siting and government ownership.

3. Evaluate the technical feasibility of expansion, considering engineering requirements, infrastructure needs, technological advancements, and regulatory compliance.

4. Evaluate relevant and appropriate data and analyses, such as surveys, studies, community goals and vision, and data utilized in preparation of the comprehensive plan, from professionally accepted sources.

5. Identify and evaluate potential risks and challenges associated with the project.

(b) The local government must review and discuss the results of the feasibility study and provide rationale in a public meeting for the necessity of the expansion.

(6) (a)-(4) (a) In order to promote the production of



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renewable energy from solid waste, each megawatt-hour produced by a renewable energy facility using solid waste as a fuel shall count as 1 ton of recycled material and shall be applied toward meeting the recycling goals set forth in this section. If a county creating renewable energy from solid waste implements and maintains a program to recycle at least 50 percent of municipal solid waste by a means other than creating renewable energy, that county shall count 1.25 tons of recycled material for each megawatt-hour produced. If waste originates from a county other than the county in which the renewable energy facility resides, the originating county shall receive such recycling credit. Any byproduct resulting from the creation of renewable energy that is recycled shall count towards the county recycling goals in accordance with the methods and criteria developed pursuant to paragraph (4) (h) ~~(2) (h)~~.

(b) A county may receive credit for one-half of the recycling goal set forth in subsection (4) ~~(2)~~ from the use of yard trash, or other clean wood waste or paper waste, in innovative programs including, but not limited to, programs that produce alternative clean-burning fuels such as ethanol or that provide for the conversion of yard trash or other clean wood waste or paper waste to clean-burning fuel for the production of energy for use at facilities other than a waste-to-energy facility as defined in s. 403.7061. The provisions of this paragraph apply only if a county can demonstrate that:

1. The county has implemented a yard trash mulching or composting program, and

2. As part of the program, compost and mulch made from yard trash is available to the general public and in use at county-



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owned or maintained and municipally owned or maintained facilities in the county and state agencies operating in the county as required by this section.

(c) A county with a population of 100,000 or less may provide its residents with the opportunity to recycle in lieu of achieving the goal set forth in this section. For the purposes of this section, the "opportunity to recycle" means that the county:

1.a. Provides a system for separating and collecting recyclable materials prior to disposal that is located at a solid waste management facility or solid waste disposal area; or

b. Provides a system of places within the county for collection of source-separated recyclable materials.

2. Provides a public education and promotion program that is conducted to inform its residents of the opportunity to recycle, encourages source separation of recyclable materials, and promotes the benefits of reducing, reusing, recycling, and composting materials.

~~(8)-(6)~~ The department may reduce or modify the municipal solid waste recycling goal that a county is required to achieve pursuant to subsection (4) ~~(2)~~ if the county demonstrates to the department that:

(a) The achievement of the goal set forth in subsection (4) ~~(2)~~ would have an adverse effect on the financial obligations of a county that are directly related to a waste-to-energy facility owned or operated by or on behalf of the county; and

(b) 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



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solid waste to ensure the financial viability of the facility.

The goal shall not be waived entirely and may only be reduced or modified to the extent necessary to alleviate the adverse effects of achieving the goal on the financial viability of a county's waste-to-energy facility. Nothing in this subsection shall exempt a county from developing and implementing a recycling program pursuant to this act.

~~(9)-(7)~~ In order to assess the progress in meeting the goal set forth in subsection (4) ~~(2)~~, each county shall, by April 1 each year, provide information to the department regarding its annual solid waste management program and recycling activities.

(a) The information submitted to the department by the county must, at a minimum, include:

1. The amount of municipal solid waste disposed of at solid waste disposal facilities, by type of waste such as yard trash, white goods, clean debris, tires, and unseparated solid waste;

2. The amount and type of materials from the municipal solid waste stream that were recycled; and

3. The percentage of the population participating in various types of recycling activities instituted.

(b) Beginning with the data for the 2012 calendar year, the department shall by July 1 each year post on its website the recycling rates of each county for the prior calendar year.

~~(22)-(20)~~ In addition to any other penalties provided by law, a local government that does not comply with the requirements of subsections (4) and (6) ~~is (2) and (4)~~ shall not be eligible for grants from the Solid Waste Management Trust Fund, and the department may notify the Chief Financial Officer



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to withhold payment of all or a portion of funds payable to the local government by the department from the General Revenue Fund or by the department from any other state fund, to the extent not pledged to retire bonded indebtedness, unless the local government demonstrates that good faith efforts to meet the requirements of subsections (4) and (6) ~~(2) and (4)~~ have been made or that the funds are being or will be used to finance the correction of a pollution control problem that spans jurisdictional boundaries.

Section 4. Present subsections (6) through (14) of section 403.707, Florida Statutes, are redesignated as subsections (7) through (15), respectively, a new subsection (6) is added to that section, and paragraph (j) of present subsection (9) of that section is amended, to read:

403.707 Permits.—

(6) The department may not issue a construction permit pursuant to this section for a new solid waste disposal facility that uses an ash-producing incinerator or for a waste-to-energy facility, if the proposed location of such facility is sited within a 1-mile radius of any school or any property zoned for residential use within that same county which has a density of one or more dwelling units per acre. The 1-mile radius must be measured from the stack of the facility. This subsection applies only to a county as defined in s. 125.011(1).

~~(10)(9)~~ The department shall establish a separate category for solid waste management facilities that accept only construction and demolition debris for disposal or recycling. The department shall establish a reasonable schedule for existing facilities to comply with this section to avoid undue





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hardship to such facilities. However, a permitted solid waste disposal unit that receives a significant amount of waste prior to the compliance deadline established in this schedule shall not be required to be retrofitted with liners or leachate control systems.

(j) The Legislature recognizes that recycling, waste reduction, and resource recovery are important aspects of an integrated solid waste management program and as such are necessary to protect the public health and the environment. If necessary to promote such an integrated program, the county may determine, after providing notice and an opportunity for a hearing prior to April 30, 2008, that some or all of the material described in s. 403.703(7)(b) ~~s. 403.703(6)(b)~~ shall be excluded from the definition of "construction and demolition debris" in s. 403.703(7) ~~s. 403.703(6)~~ within the jurisdiction of such county. The county may make such a determination only if it finds that, prior to June 1, 2007, the county has established an adequate method for the use or recycling of such wood material at an existing or proposed solid waste management facility that is permitted or authorized by the department on June 1, 2007. The county is not required to hold a hearing if the county represents that it previously has held a hearing for such purpose, or if the county represents that it previously has held a public meeting or hearing that authorized such method for the use or recycling of trash or other nonputrescible waste materials and that such materials include those materials described in s. 403.703(7)(b) ~~s. 403.703(6)(b)~~. The county shall provide written notice of its determination to the department by no later than April 30, 2008; thereafter, the materials



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described in s. 403.703(7) ~~s. 403.703(6)~~ shall be excluded from the definition of "construction and demolition debris" in s. 403.703(7) ~~s. 403.703(6)~~ within the jurisdiction of such county. The county may withdraw or revoke its determination at any time by providing written notice to the department.

Section 5. Subsection (5) of section 403.7049, Florida Statutes, is amended to read:

403.7049 Determination of full cost for solid waste management; local solid waste management fees.—

(5) In order to assist in achieving the municipal solid waste reduction goal and the recycling provisions of s. 403.706(4) ~~s. 403.706(2)~~, a county or a municipality which owns or operates a solid waste management facility is hereby authorized to charge solid waste disposal fees which may vary based on a number of factors, including, but not limited to, the amount, characteristics, and form of recyclable materials present in the solid waste that is brought to the county's or the municipality's facility for processing or disposal.

Section 6. Paragraph (c) of subsection (2) and subsection (3) of section 403.705, Florida Statutes, are amended to read:

403.705 State solid waste management program.—

(2) The state solid waste management program shall include, at a minimum:

(c) Planning guidelines and technical assistance to counties and municipalities to aid in meeting the municipal solid waste recycling goals established in s. 403.706(4) ~~s. 403.706(2)~~.

(3) The department shall evaluate and report biennially to the President of the Senate and the Speaker of the House of



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Representatives on the state's success in meeting the solid waste recycling goal as described in s. 403.706(4) ~~s.~~

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete lines 322 - 324

and insert:

state parks; amending s. 403.706, F.S.; prohibiting a local government from issuing a construction permit for certain solid waste disposal facilities in certain counties; providing applicability; prohibiting a local government from issuing a permit for the expansion of certain existing landfills unless a feasibility study is conducted; specifying requirements for the feasibility study; requiring the local government to review and discuss at a certain meeting the results of the feasibility study and provide a rationale for expanding the landfill; amending s. 403.707, F.S.; prohibiting the Department of Environmental Protection from issuing a