

By the Committees on Rules; and Community Affairs; and Senator Martin

595-03677-25

20251822c2

A bill to be entitled

An act relating to waste management; amending s. 403.703, F.S.; defining the term "auxiliary container"; conforming cross-references; amending s. 403.7033, F.S.; deleting obsolete provisions that provide legislative findings and require the Department of Environmental Protection to review and update a specified report; preempting the regulation of auxiliary containers to the state; permitting rules, regulations, or ordinances restricting the use of glass auxiliary containers within the boundaries of a public beach; authorizing the Division of Recreation and Parks to regulate auxiliary containers within state parks; amending ss. 403.706 and 403.707, F.S.; prohibiting a local government and the Department of Environmental Protection, respectively, from issuing a construction permit for certain solid waste disposal facilities in certain counties; providing applicability; conforming a provision to changes made by the act; conforming cross-references; amending ss. 403.7049 and 403.705, F.S.; conforming cross-references; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsections (2) through (48) of section 403.703, Florida Statutes, are redesignated as sections (3) through (49), respectively, a new subsection (2) is added to that section, and present subsections (6), (7), (21), and (35)

595-03677-25

20251822c2

of that section are amended, to read:

403.703 Definitions.—As used in this part, the term:

(2) "Auxiliary container" means a reusable or single-use bag, cup, bottle, can, or other packaging that meets both of the following requirements:

(a) Is made of cloth; paper; plastic, including, but not limited to, foamed plastic, expanded plastic, or polystyrene; cardboard; corrugated material; molded fiber; aluminum; glass; postconsumer recycled material; or similar material or substrates, including coated, laminated, or multilayer substrates.

(b) Is designed for transporting, consuming, or protecting merchandise, food, or beverages from or at a public food service establishment as defined in s. 509.013(5), a food establishment as defined in s. 500.03(1), or a retailer as defined in s. 212.02(13).

(7)~~(6)~~ "Construction and demolition debris" means discarded materials generally considered to be not water-soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and includes rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site. Mixing of construction and demolition debris with other types of solid waste will cause the resulting mixture to

595-03677-25

20251822c2

be classified as other than construction and demolition debris.

The term also includes:

(a) Clean cardboard, paper, plastic, wood, and metal scraps from a construction project;

(b) Except as provided in s. 403.707(10)(j) ~~s. 403.707(9)(j)~~, yard trash and unpainted, nontreated wood scraps and wood pallets from sources other than construction or demolition projects;

(c) Scrap from manufacturing facilities which is the type of material generally used in construction projects and which would meet the definition of construction and demolition debris if it were generated as part of a construction or demolition project. This includes debris from the construction of manufactured homes and scrap shingles, wallboard, siding concrete, and similar materials from industrial or commercial facilities; and

(d) De minimis amounts of other nonhazardous wastes that are generated at construction or destruction projects, provided such amounts are consistent with best management practices of the industry.

(8)(7) "County," or any like term, means a political subdivision of the state established pursuant to s. 1, Art. VIII of the State Constitution and, when s. 403.706(20) ~~s. 403.706(19)~~ applies, means a special district or other entity.

(22)(21) "Municipality," or any like term, means a municipality created pursuant to general or special law authorized or recognized pursuant to s. 2 or s. 6, Art. VIII of the State Constitution and, when s. 403.706(20) ~~s. 403.706(19)~~ applies, means a special district or other entity.

595-03677-25

20251822c2

88        ~~(36)~~(35) "Solid waste" means sludge unregulated under the  
89 federal Clean Water Act or Clean Air Act, sludge from a waste  
90 treatment works, water supply treatment plant, or air pollution  
91 control facility, or garbage, rubbish, refuse, special waste, or  
92 other discarded material, including solid, liquid, semisolid, or  
93 contained gaseous material resulting from domestic, industrial,  
94 commercial, mining, agricultural, or governmental operations.  
95 Recovered materials as defined in subsection (29) ~~(28)~~ and post-  
96 use polymers as defined in subsection (25) ~~(24)~~ are not solid  
97 waste.

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

100        403.7033 Preemption of regulation for auxiliary containers  
101 ~~Departmental analysis of particular recyclable materials. The~~  
102 ~~Legislature finds that prudent regulation of recyclable~~  
103 ~~materials is crucial to the ongoing welfare of Florida's ecology~~  
104 ~~and economy. As such, the Department of Environmental Protection~~  
105 ~~shall review and update its 2010 report on retail bags analyzing~~  
106 ~~the need for new or different regulation of auxiliary~~  
107 ~~containers, wrappings, or disposable plastic bags used by~~  
108 ~~consumers to carry products from retail establishments. The~~  
109 ~~updated report must include input from state and local~~  
110 ~~government agencies, stakeholders, private businesses, and~~  
111 ~~citizens and must evaluate the efficacy and necessity of both~~  
112 ~~statewide and local regulation of these materials. To ensure~~  
113 ~~consistent and effective implementation, the department shall~~  
114 ~~submit the updated report with conclusions and recommendations~~  
115 ~~to the Legislature no later than December 31, 2021. Until such~~  
116 ~~time that the Legislature adopts the recommendations of the~~

595-03677-25

20251822c2

117 ~~department,~~

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

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

127 (3) The Division of Recreation and Parks of the Department  
128 of Environmental Protection may regulate auxiliary containers  
129 within state parks consistent with its grant of authority in s.  
130 258.004, wrappings, or disposable plastic bags.

131 Section 3. Present subsections (2) through (23) of section  
132 403.706, Florida Statutes, are redesignated as subsections (3)  
133 through (24), respectively, a new subsection (2) is added to  
134 that section, and present subsections (4), (6), (7), and (20) of  
135 that section are amended, to read:

136 403.706 Local government solid waste responsibilities.—

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

595-03677-25

20251822c2

146        (5) (a) ~~(4) (a)~~ In order to promote the production of  
147 renewable energy from solid waste, each megawatt-hour produced  
148 by a renewable energy facility using solid waste as a fuel shall  
149 count as 1 ton of recycled material and shall be applied toward  
150 meeting the recycling goals set forth in this section. If a  
151 county creating renewable energy from solid waste implements and  
152 maintains a program to recycle at least 50 percent of municipal  
153 solid waste by a means other than creating renewable energy,  
154 that county shall count 1.25 tons of recycled material for each  
155 megawatt-hour produced. If waste originates from a county other  
156 than the county in which the renewable energy facility resides,  
157 the originating county shall receive such recycling credit. Any  
158 byproduct resulting from the creation of renewable energy that  
159 is recycled shall count towards the county recycling goals in  
160 accordance with the methods and criteria developed pursuant to  
161 paragraph (3) (h) ~~(2) (h)~~.

162        (b) A county may receive credit for one-half of the  
163 recycling goal set forth in subsection (3) ~~(2)~~ from the use of  
164 yard trash, or other clean wood waste or paper waste, in  
165 innovative programs including, but not limited to, programs that  
166 produce alternative clean-burning fuels such as ethanol or that  
167 provide for the conversion of yard trash or other clean wood  
168 waste or paper waste to clean-burning fuel for the production of  
169 energy for use at facilities other than a waste-to-energy  
170 facility as defined in s. 403.7061. The provisions of this  
171 paragraph apply only if a county can demonstrate that:

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

174            2. As part of the program, compost and mulch made from yard

595-03677-25

20251822c2

trash is available to the general public and in use at county-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.

(7)~~(6)~~ The department may reduce or modify the municipal solid waste recycling goal that a county is required to achieve pursuant to subsection (3) ~~(2)~~ if the county demonstrates to the department that:

(a) The achievement of the goal set forth in subsection (3) ~~(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

595-03677-25

20251822c2

204 facility because of the need to maintain a sufficient amount of  
205 solid waste to ensure the financial viability of the facility.  
206

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

213 (8)~~(7)~~ In order to assess the progress in meeting the goal  
214 set forth in subsection (3) ~~(2)~~, each county shall, by April 1  
215 each year, provide information to the department regarding its  
216 annual solid waste management program and recycling activities.

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

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

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

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

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

229 (21)~~(20)~~ In addition to any other penalties provided by  
230 law, a local government that does not comply with the  
231 requirements of subsections (3) and (5) ~~is (2) and (4) shall not~~  
232 ~~be~~ eligible for grants from the Solid Waste Management Trust



595-03677-25

20251822c2

Fund, and the department may notify the Chief Financial Officer 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 (3) and (5) ~~(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 one mile radius of any school or any property zoned for residential use which has a density of one or more dwelling units per acre. The one-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

595-03677-25

20251822c2

existing facilities to comply with this section to avoid undue 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

595-03677-25

20251822c2

no later than April 30, 2008; thereafter, the materials 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(3) ~~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(3) ~~s. 403.706(2)~~.

(3) The department shall evaluate and report biennially to

595-03677-25

20251822c2

320 the President of the Senate and the Speaker of the House of  
321 Representatives on the state's success in meeting the solid  
322 waste recycling goal as described in s. 403.706(3) ~~s.~~  
323 ~~403.706(2)~~.

324 Section 7. This act shall take effect July 1, 2025.