

FLORIDA HOUSE OF REPRESENTATIVES

BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: [CS/HB 1089](#)
TITLE: Waste Facilities
SPONSOR(S): Bartleman

COMPANION BILL: [CS/SB 1196](#) (Sharief)
LINKED BILLS: None
RELATED BILLS: None

Committee References

[Natural Resources & Disasters](#)
14 Y, 0 N, As CS



[Intergovernmental Affairs](#)



[State Affairs](#)

SUMMARY

Effect of the Bill:

The bill prohibits the Department of Environmental Protection and local governments from issuing a construction permit for a new solid waste disposal facility that uses an ash-producing incinerator or for a waste-to-energy facility if the proposed location is sited within one mile of certain impoundment areas authorized by Congress.

Fiscal or Economic Impact:

None.

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ANALYSIS

EFFECT OF THE BILL:

The bill prohibits the Department of Environmental Protection (DEP) or a local government from issuing a construction permit for a new [solid waste disposal](#) facility that uses an ash-producing incinerator or for a [waste-to-energy facility](#) if the proposed location is within one mile of certain impoundment areas authorized by Congress.¹ Such impoundment areas are those with an effective interior storage of at least 100 acres for purposes of capturing, storing, and distributing surface water, improving hydroperiods and hydropatterns in any water conservation area, increasing spatial extent of wetlands, benefiting any federally listed threatened and endangered species, flood mitigation, or groundwater recharge. (Sections [1](#) and [2](#))

The provisions of the bill do not apply to any canals and any construction, current operation, or modification to structures or operations that exist as of July 1, 2026. The bill's provisions also do not apply to any parcel located in a county with a population of less than 1.7 million according to the United States 2020 decennial census. (Sections [1](#) and [2](#))

The effective date of the bill is July 1, 2026. (Section [6](#))

¹ An impoundment area is an "area [of water] behind a dam used to collect and store flood waters, thus preventing them from reaching the areas to be protected. The stored flood waters are later released at reduced (non-damaging) flow rates." They are often used in environmental restoration and conservation projects. For example, the Site 1 Impoundment Project, authorized by Congress in the 2007 Water Resource Development Act, is being used to supplement water deliveries to the Hillsboro Canal by capturing and storing excess water, thereby relieving demands on other water sources. See United States Army Corps of Engineers (USACE), *Fact Sheet: Structural Measures*, available at <https://www.nap.usace.army.mil/Portals/39/docs/Civil/DelComp/Dams%20or%20Impoundments.pdf#:~:text=Description:%20An%20impoundment%20or%20lake%20is%20that,Detention%20ponds%20and%20flood%20risk%20management%20dams;> USACE, *Fact Sheet: Comprehensive Everglades Restoration Plan, Site 1 Impoundment* (May 2025), available at <https://www.saj.usace.army.mil/About/Congressional-Fact-Sheets-2025/CERP-Site-1-Impoundment-C/>.

STORAGE NAME: h1089b.IAS

DATE: 2/10/2026

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Solid Waste Disposal

Solid waste² disposal methods may include recycling, composting, incineration, landfill disposal, or other specialized treatments.³ The Department of Environmental Protection (DEP) is responsible for implementing and enforcing Florida's solid waste management program, which provides guidelines for the storage, separation, processing, recovery, recycling, and disposal of solid waste throughout the state.⁴ The program includes procedures and requirements to ensure cooperative efforts in solid waste management by counties, municipalities, and groups of counties and municipalities.⁵ A solid waste management facility may not be operated, maintained, constructed, expanded, modified, or closed without receiving a permit from DEP.⁶

Counties are responsible for operating solid waste disposal facilities, which are also permitted through DEP, in order to meet the needs of the incorporated and unincorporated areas of the county. Counties may contract with other persons to fulfill some or all of its solid waste responsibilities.⁷ DEP may adopt rules to establish performance standards for construction and closure of solid waste management facilities.⁸ Current law requires that when DEP receives an application for construction of a new Class I solid waste disposal facility, it must transmit a copy of the permit application to the water management district with jurisdiction over the proposed facility location within seven days of the application being filed.⁹ The water management district may then provide an advisory report, within 30 days, on the potential impact of the facility to water resources.¹⁰ The issuance of a construction permit for a new solid waste disposal facility within 3,000 feet of certain surface waters is prohibited.¹¹ DEP rules also prohibit locating a solid waste disposal unit in the 100-year floodplain if it will restrict the flow of water, reduce the water storage capacity of the floodplain without compensating storage, or result in a washout of solid waste.¹²

Solid Waste-to-Energy

Energy recovery from waste is the conversion of non-recyclable waste materials into usable heat, electricity, or fuel through processes, including combustion, gasification, pyrolyzation, anaerobic digestion, and landfill gas recovery.¹³ This process is known as waste-to-energy (WTE). WTE facilities combust municipal solid waste (MSW) to

² "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. [S. 403.703\(35\), F.S.](#)

³ See, e.g., U.S. Environmental Protection Agency (EPA), *Sustainable Materials Management: Non-Hazardous Materials and Waste Management Hierarchy*, <https://www.epa.gov/smm/sustainable-materials-management-non-hazardous-materials-and-waste-management-hierarchy> (last visited Feb. 6, 2026). See also, IDR Environmental Services, *What is Solid Waste?*, <https://blog.idrenvironmental.com/what-is-solid-waste> (last visited Feb. 6, 2026).

⁴ [S. 403.705, F.S.](#)

⁵ [S. 403.705\(2\)\(a\), F.S.](#)

⁶ [S. 403.707\(1\), F.S.](#)

⁷ [S. 403.706\(1\) and \(8\), F.S.](#) "Solid waste disposal facilities" means any solid waste management facility that is the final resting place for solid waste, including landfills and incineration facilities that produce ash from the process of incinerating municipal solid waste. [S. 403.703\(36\), F.S.](#)

⁸ [S. 403.707\(1\), F.S.](#)

⁹ [S. 403.707\(4\), F.S.](#) A Class I landfill is a landfill that accepts Class I waste. See R. [62-701.340\(2\)\(a\), F.A.C.](#) Class I waste means solid waste that is not hazardous waste, and that is not prohibited from disposal in a lined landfill. See R. [62-701.200\(13\), F.A.C.](#)

¹⁰ [S. 403.707\(4\), F.S.](#)

¹¹ [S. 403.707\(5\), F.S.](#)

¹² [R. 62-701.340\(3\)\(b\), F.A.C.](#)

¹³ EPA, *Energy Recovery from the Combustion of Municipal Solid Waste (MSW)*, <https://www.epa.gov/smm/energy-recovery-combustion-municipal-solid-waste-msw> (last visited Feb. 6, 2026).

thermally break down solid, liquid, or gaseous combustible solid waste to an ash residue that contains little or no combustible material and that produces electricity, steam, or other energy as a result.¹⁴ MSW can contain:

- Biomass, or biogenic (plant or animal products) materials such as paper, cardboard, food waste, grass clippings, leaves, wood, and leather products.
- Non-biomass combustible materials such as plastics and other synthetic materials made from petroleum.
- Non-combustible materials such as glass and metals.¹⁵

Florida has the largest capacity to burn MSW of any state in the country with eight WTE facilities operating in the state.¹⁶ Current law encourages local governments seeking permits for constructing or expanding a Class I landfill to consider construction of a WTE facility as an alternative to additional landfill space.¹⁷

DEP regulates and issues permits for WTE facilities.¹⁸ Each applicant for a permit to construct a new WTE facility or to expand the capacity of an existing WTE facility must provide reasonable assurance that:

- The proposed facility is a necessary part of the local government's integrated solid waste management program.
- The capacity of existing WTE facilities has been evaluated and not found to be economically feasible in comparison to the proposed facility.
- The local governments served by the proposed facility have implemented programs for yard trash waste reduction, the separation of household hazardous waste, and to procure products or materials with recycled content.
- The local governments served by the proposed facility will have a program for collecting and recycling commercial and industrial material before the proposed facility begins operations.
- The facility will comply with applicable local ordinances.
- The facility is in compliance with its permit, conditions of certification, and any agreements or orders resulting from environmental enforcement actions by state agencies.¹⁹

DEP can exempt certain types of facilities from permit requirements if it determines that construction or operation of the facility is not expected to create any significant threat to the environment or public health.²⁰

DEP must allow WTE facilities to maximize acceptance and processing of nonhazardous solid and liquid waste.²¹ Ash from WTE facilities must be disposed of in a lined MSW landfill or a lined ash monofill, since a U.S. Environmental Protection Agency (EPA) study showed that ash from WTE facilities should not be classified as hazardous waste.²²

¹⁴ [S. 403.7061\(4\), F.S.](#) See also, U.S. Energy Information Administration, *Biomass Explained: Waste-to-Energy*, <https://www.eia.gov/energyexplained/biomass/waste-to-energy-in-depth.php> (last visited Feb. 6, 2026).

¹⁵ U.S. Energy Information Administration, *Biomass Explained: Waste-to-Energy (Municipal Solid Waste)*, <https://www.eia.gov/energyexplained/biomass/waste-to-energy.php> (last visited Feb. 6, 2026).

¹⁶ DEP, *Waste-to-Energy*, <https://floridadep.gov/waste/permitting-compliance-assistance/content/waste-energy> (last visited Feb. 6, 2026).

¹⁷ [S. 403.70611, F.S.](#)

¹⁸ Section [403.704\(9\), F.S.](#), authorizes DEP to adopt rules to enforce the provisions of ch. 403, F.S., including requirements for the classification, construction, operation, maintenance, and closure of solid waste management facilities and requirements for, and conditions on, solid waste disposal. Section [403.7061, F.S.](#), further authorizes DEP to evaluate applications for WTE facilities. In addition to a solid waste management facility permit, WTE facilities may also require an air construction and operation permits. See ss. 403.707(6) and [403.087\(1\), F.S.](#); R. [62-210.300, F.A.C.](#) See also DEP, *Information about the requirements and process for submitting air construction permits* (Sep. 25, 2025), available at <https://floridadep.gov/air/permitting-compliance/documents/air-construction-permits> (last visited Feb. 6, 2026).

¹⁹ [S. 403.7061\(3\), F.S.](#)

²⁰ [S. 403.707\(1\), F.S.](#)

²¹ *Id.*

²² DEP, *Waste-to-Energy*, <https://floridadep.gov/waste/permitting-compliance-assistance/content/waste-energy> (last visited Feb. 6, 2026).

EPA regulates emissions from nine air pollutants (particulate matter, carbon monoxide, dioxins/furans, sulfur dioxide, nitrogen oxides, hydrogen chloride, lead, mercury, and cadmium) from four categories of solid waste incineration units: (1) municipal solid waste; (2) hospital, medical, and infectious solid waste; (3) commercial and industrial solid waste; and (4) other solid waste.²³ Emission limits may vary depending on the size and type of the facility (e.g., large versus small municipal waste combustors) and whether the materials incinerated are hazardous.²⁴

RECENT LEGISLATION:

YEAR	BILL #/SUBJECT	HOUSE/SENATE SPONSOR(S)	OTHER INFORMATION
2025	CS/HB 1609 - Waste Incineration	Weinberger, Borrero/ Avila	The bill died in House Returning Messages.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Natural Resources & Disasters Subcommittee	14 Y, 0 N, As CS	2/4/2026	Skinner	Weiss
THE CHANGES ADOPTED BY THE COMMITTEE:	- Reduced the distance the prohibition created by the bill applies to from two miles to one mile. - Removed the reference to “as measured from the stack” for the point of reference for such distance. - Exempted parcels located in a county with a population of less than 1.7 million, according to the United States 2020 decennial census from the bill’s provisions.			
Intergovernmental Affairs Subcommittee			Darden	Hilliard
State Affairs Committee				

THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.

²³ EPA, *Large Municipal Waste Combustors (LMWC): New Source Performance Standards (NSPS) and Emissions Guideline*, <https://www.epa.gov/stationary-sources-air-pollution/large-municipal-waste-combustors-lmwc-new-source-performance> (last visited Feb. 6, 2026); see also [71 Fed. Reg. 27324-48](#) (adopting final rule regarding standards of performance for new stationary sources and emission guidelines for existing sources: large municipal waste combustors); [40 CFR part 60](#).

²⁴ See generally EPA, *Clean Air Act Guidelines and Standards for Waste Management*, <https://www.epa.gov/stationary-sources-air-pollution/clean-air-act-guidelines-and-standards-waste-management> (last visited Feb. 6, 2026).