

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 9, 1998 Revised: _____

Subject: Solid Waste Management

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	Gee	Voigt	NR	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill authorizes the Department of Environmental Protection (DEP) to permit recycling and reuse of ash residue which meets DEP standards, and authorizes the department to adopt rules to administer the program.

This bill amends section 403.7045 of the Florida Statutes.

II. Present Situation:

The DEP regulates the disposal of ash generated by solid waste management facilities from the burning of solid waste pursuant to s. 403.7045(5), F.S., which directs the department to develop standards for disposal through rulemaking. This subsection also directs the DEP to work with solid waste management facilities which burn solid waste to identify and develop methods for recycling and reuse of incineration ash. Under this authority the DEP has adopted ch. 62-702, F.A.C., regulating the handling, disposal, and recycling of ash residue.

Subsequent to the adoption of these rules, the 1996 Legislature significantly amended ch. 120, F.S., the Administrative Procedure Act. The amendments, among other things, restricted the authority of agencies to adopt rules. Section 120.536, F.S., for example, provides that "no agency shall have authority to adopt a rule only because it is reasonably related to the purpose of the enabling legislation ... nor shall an agency have the authority to implement statutory provisions setting forth general legislative intent on policy." Due to such restrictions, it appears that the DEP does not now have sufficient statutory authority to administer its ash disposal program under ch. 62-702, F.A.C.

III. Effect of Proposed Changes:

The bill amends s. 403.7045(5), F.S., to delete an obsolete provision, clarifies that the department's authority relates to ash residue, and authorizes the DEP to allow recycling or reuse by an applicant who demonstrates that no significant threat to public health will result and that applicable department standards and criteria will not be violated. The DEP's Division of Waste Management will direct the district offices and bureaus on matters relating to the interpretation and applicability of this subsection. The department is authorized to adopt rules necessary for administering this subsection, but the department is not required to amend its existing rules.

The act will take effect upon becoming a law.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None. The bill will simply permit continuation of the department's current program.

C. Government Sector Impact:

None. The department's current program will continue unchanged.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
