

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Environmental Preservation and Conservation Committee

BILL: CS/SB 2052

INTRODUCER: Environmental Preservation and Conservation Committee and Environmental Preservation and Conservation Committee

SUBJECT: Environmental Protection

DATE: March 8, 2007 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Branning	Kiger	EP	Fav/CS
2.	_____	_____	CA	_____
3.	_____	_____	GA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The committee substitute would implement the recommendations of the Senate Environmental Preservation Committee’s 2006 interim report – 2006-121, Review of the Solid Waste Management Act. The committee substitute makes a number of technical amendments to correct cross-references, delete certain obsolete provisions and dates from the solid waste management statutes, and address other issues which have arisen since the last major rewrite of the Solid Waste Management Act. Specifically, the committee substitute:

- Deletes the provisions relating to Keep Florida Beautiful, Inc., and deletes the Wildflower Advisory Council that was created within Keep Florida Beautiful. The proceeds from the Wildflower license plate fees are to be distributed to the Wildflower Foundation, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code.
- Places the Adopt-a-Shore Program that was created within Keep Florida Beautiful in the Department of Environmental Protection (DEP).
- Alphabetizes the definitions used in the Solid Waste Management Act. Deletes obsolete definitions and consolidates definitions that are found elsewhere in the act.
- Deletes obsolete language relating to Class II landfills and compost standards.
- Clarifies the circumstances under which industrial byproducts are not regulated under the Solid Waste Management Act.
- Deletes provisions relating to biomedical incinerators.
- Allows DEP to exempt, by rule, certain facilities from the permit requirements if that facility is not expected to pose any significant threat to the environment or public health.

- Clarifies that a permit to operate a solid waste management facility may not be transferred by the permittee without the consent of the DEP. No permit may be transferred until any proof of financial assurance required by department rule is provided by the proposed new permittee. When the permit transfer is approved, the DEP must return any means of proof of financial assurance to the original permittee and that permittee is released from his or her permit obligations. The new permittee must agree in writing to accept responsibility for performing corrective actions as a result of DEP enforcement action or a consent order.
- Provides for the management of storm-generated debris.
- Places time restrictions on certain liens imposed by the DEP.
- Broadens the innovative grant program to allow more projects to qualify.
- Provides that escrow accounts may only be used by government-owned solid waste facilities to meet the financial requirements for closure. Provides that certain privately-owned facilities are grandfathered in.
- Deletes the provisions relating to the training of operators for waste-to-energy facilities, biomedical waste incinerators, and mobile soil thermal treatment units or facilities.
- Revises the definition of “waste tire” and “waste tire processing facility.”
- Exempts certain tire businesses from having to obtain a tire storage permit.
- Extends the duration of certain solid and hazardous waste research, development, and demonstration permits.
- Deletes a requirement for a separate report on hazardous waste management.
- Authorizes the DEP to issue authorizations which include both permits and clean closure orders for hazardous waste facilities.
- Clarifies the provisions relating to the posting of signs on certain properties contaminated by hazardous wastes.
- Allows the DEP to issue orders requiring the prompt abatement of an imminent hazard caused by a hazardous substance.
- Reduces the local match requirement for local governments in order to receive certain hazardous waste collection grants. Provides exceptions from the match requirement.
- Repeals a provision relating to the submission of certain solid waste facility construction and operation plans.
- Repeals the requirement for a separate used oil report.
- Repeals the provisions relating to the Multipurpose Hazardous Waste Facility Siting Act.

The committee substitute amends the following sections of the Florida Statutes: 403.413, 403.4131, 403.41315, 403.4133, 320.08058, 403.703, 403.704, 403.7043, 403.7045, 403.707, 403.708, 403.709, 403.7095, 403.7125, 403.716, 403.717, 403.722, 403.7226, 403.724, 403.7255, 403.726, and 403.7265.

Section 403.7221, F.S., is amended, transferred and renumbered as 403.70715, F.S.

The committee substitute creates the following section of the Florida Statutes: 403.7071.

The committee substitute repeals the following sections of the Florida Statutes: 403.7075, 403.756, 403.78, 403.781, 403.782, 403.783, 403.784, 403.7841, 403.7842, 403.785, 403.786, 403.787, 403.7871, 403.7873, 403.788, 403.7881, 403.789, 403.7891, 403.7892, 403.7893, and 403.7895.

II. Present Situation:

The Solid Waste Management Act (SWMA) was enacted in 1988 to provide comprehensive programs to promote recycling and reduce the volume of materials going to landfills.¹

The SWMA mandated waste minimization, conservation of landfill space, litter control, and recycling and required the involvement and cooperation of Florida's residents, businesses, and visitors.² Several state agencies were given responsibilities under SWMA with the Department of Environmental Regulation³ having the lead responsibility for developing the state program, adopting all regulations and standards, permitting facilities, and managing biohazardous waste.

A major provision of the SWMA required all counties to initiate recycling programs to separate and offer for recycling a majority of aluminum cans, glass, newspaper, and plastic bottles.

As part of their recycling programs, local governments were encouraged to separate all plastics, metals, and all grades of paper for recycling prior to final disposal and were also encouraged to recycle yard trash and other mechanically treated solid waste into compost available for agricultural and other acceptable uses.

Counties were required to achieve a waste reduction goal of 30 percent by 1994. No more than one-half of the goal could be met with yard trash, white goods,⁴ construction and demolition (C&D) debris, and tires. The goal could be modified or reduced for any county that demonstrated it would have an adverse impact on the financial obligations of the county regarding waste-to-energy facilities (WTE).

To assist the counties in their recycling efforts, the SWMA established certain grant programs. The types of grants available included small county grants, recycling and education grants, waste tire grants, and litter and marine debris prevention grants.

The SWMA also provided for a waste newsprint fee, a waste tire fee, and the implementation of an advance disposal fee if certain recycling conditions were not met.

The Solid Waste Management Trust Fund (SWMTF) was created to fund solid waste management activities.

In 1993, the SWMA was significantly rewritten to update and refine the act. Major features of this rewrite included:

- Creating the Recycling Markets Advisory Committee in the Department of Commerce.⁵

¹ Senate Staff Analysis CS/CS/CS/SB 710, Feb. 2002.

² A Report on the Review of 1988 Solid Waste Management Act, Staff of the Senate Natural Resources and Conservation Committee.

³ In 1993, the Department of Natural Resources and the Department of Environmental Regulation were merged into one department, the current Department of Environmental Protection.

⁴ "White goods" generally include discarded refrigerators, water heaters, freezers, and other similar domestic and commercial appliances.

⁵ The Department of Commerce was abolished in 1996 pursuant to ch. 96-320, L.O.F.

- Providing significant new provisions relating to the advance disposal fee and statewide litter program. Initially, the advance disposal fee was 1 cent per container with an increase to 2 cents on January 1, 1995. The estimated proceeds of the fee (\$22 million) were deposited into the SWMTF to be used to supplement recycling grants, Surface Water Improvement and Management or SWIM program, Sewage Treatment Revolving Loan Program, and the Small Community Sewer Construction Assistance Program. The advance disposal fee and the waste newsprint fee provisions expired on October 1, 1995, as provided in ch. 88-130, Laws of Florida.
- Providing new requirements for permitting WTE facilities and commercial hazardous waste incinerators in the state. No commercial hazardous waste incinerator may be permitted or certified in the state without a certificate of need, issued by the Governor and Cabinet, sitting as the Statewide Multipurpose Hazardous Waste Facility Siting Board.
- Establishing the Florida Packaging Council and creating a comprehensive litter and marine debris control and prevention program.
- Providing assistance to smaller counties to aid in meeting their waste reduction and recycling responsibilities.
- Providing for the ownership of solid waste and flow control.
- Providing for the disposal of certain batteries.
- Allowing the SWMTF to be used to fund projects relating to market development for recycled materials.
- Allowing counties with a population of less than 50,000 to be eligible for annual solid waste grants of \$50,000.

Another significant revision to the SWMA occurred in 1996 when the provisions relating to C&D debris were substantially revised. These provisions included requiring the Department of Environmental Protection (DEP) to establish a separate category for solid waste management facilities which accept only C&D debris for disposal or recycling; and providing that the DEP may not require liners and leachate collection systems at individual facilities unless it demonstrates that the facility is reasonably expected to result in violations of ground water standards. A permit is not required for disposal of C&D debris on the property where it is generated, but such property must be covered, graded, and vegetated as necessary when disposal is complete.

For several years, approximately \$30 million was appropriated annually from the SWMTF and used for water quality and restoration projects. As a result, the Legislature in 2002 provided for the permanent reallocation of the sales tax proceeds that were being deposited into the SWMTF. These funds (approximately \$30 M annually) are now deposited into the Ecosystem Management and Restoration Trust Fund to be used for water quality improvement and water restoration projects. The SWMTF is now funded almost exclusively from the waste disposal fees imposed on tires purchased at retail. This fee generates approximately \$19 million annually and supports not only the grants program, but also the general solid waste activities of the Division of Waste Management.

Also, the counties are no longer required to annually submit to the DEP certain solid waste and recycling information. Instead, the DEP may periodically seek the information from the counties to evaluate and report on the success of meeting the solid waste reduction goal.

Counties must still implement a recyclable materials recycling program; however, the counties are no longer required to recover a majority of the minimum five.⁶ Instead, they are encouraged to recover a significant portion of at least four of the following materials: newspaper, aluminum cans, steel cans, glass, plastic bottles, cardboard, office paper, and yard trash.

The 2002 revisions to the SWMA also:

- Deleted specific language regarding the amount of C&D debris, yard trash, white goods, and tires that may be considered when determining the 30 percent waste reduction goal.
- Redefined “small county” from 75,000 to 100,000 for purposes of providing an opportunity to recycle in lieu of achieving the 30-percent goal.
- Required C&D debris to be separated from the solid waste stream in separate locations at a solid waste disposal facility or other permitted site.
- Refocused the purposes of the SWMTF toward the core solid waste management responsibilities of the DEP and created a new competitive and innovative solid waste management grant program. It also maintained funding for the mosquito control activities in the Department of Agriculture and Consumer Services (DACS).
- Redistributed the funds in the SWMTF.
 - Up to 40 percent for funding solid waste activities of the DEP and other state agencies.
 - Up to 4.5 percent for funding research and training programs relating to solid waste management through the Center for Solid and Hazardous Waste Management.
 - Up to 11 percent to DACS for mosquito control.
 - A minimum of 40 percent for funding a competitive and innovative grant program relating to recycling and reducing the volume of municipal solid waste, including waste tires requiring final disposal.
- Provided for the distribution of the available solid waste management grants funds:
 - Up to 15 percent for the competitive and innovative grant program.
 - Up to 35 percent for the consolidated grant program for small counties.
 - Up to 50 percent for the waste tire program.
- Directed DEP to use the \$30 million annually transferred from the sales tax proceeds to the Ecosystem Management and Restoration TF for projects to improve water quality and restore lakes and rivers impacted by pollution. At least 20 percent of the funds available are to be used for projects that assist financially disadvantaged small local governments.

The most recent revisions to the SWMA were made in 2005 and included the following:

- Prior to the construction of a new WTE facility or the expansion of an existing WTE, the county must implement and maintain a solid waste management and recycling program designed to meet the 30 percent waste reduction goal. If a WTE is built in a county with a population of less than 100,000 that county would have to have a program designed to achieve the 30 percent waste reduction goal, and not just provide the opportunity to recycle.

⁶ Aluminum cans, steel cans, newsprint, glass, and plastic.

- Local government applicants for a permit to construct or expand a Class I landfill are encouraged to consider the construction of a WTE facility as an alternative to additional landfill space.
- Clarified that local governmental entities are required to pay the waste tire fee and the lead-acid battery fee.
- Increased the penalty for a litter violation from \$50 to \$100. The \$50 increase is to be deposited into the SWMTF to be used for the solid waste management grant program.
- Provided for a pilot project to encourage the reuse or recycling of campaign signs. The recovered campaign signs are to be made available to schools and other entities that may have a use for them, at no cost.

The last time the Solid Waste Management Act was substantially rewritten was in 1993. Although there have been several amendments to the statutory provisions since that time, these amendments have been piecemeal and the issues have not been addressed in a comprehensive manner. In the past few years, issues have arisen regarding recycling and disposal of vegetative and C&D debris. This problem has been exacerbated by the fact that Florida was hit with four major hurricanes in 2004 and by Hurricanes Dennis, Katrina, and Wilma in 2005.

The solid waste provisions in the statutes contain several provisions that need to be updated to delete obsolete provisions and dates that have expired. Some provisions have never been used and certain provisions are no longer needed.

In 2006, the Senate Environmental Preservation Committee was assigned an interim project to review the Solid Waste Management Act and make recommendations to the Legislature to update the act and make recommendations to address issues that have recently arisen.

III. Effect of Proposed Changes:

The committee substitute would implement the recommendations of the Senate Environmental Preservation Committee's interim report no. 2006-121, Review of the Solid Waste Management Act. The committee substitute makes a number of technical amendments to correct cross-references, deletes certain obsolete provisions and dates from the solid waste management statutes, and addresses other issues which have arisen since the last major rewrite of the Solid Waste Management Act.

Section 1 amends s. 320.08058, F.S., to provide that the annual use fees from the sale of the Wildflower license plates shall now be distributed to the Wildflower Foundation, Inc, a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code. The proceeds of the annual use fees must be used to establish native Florida wildflower research programs, wildflower educational programs, and wildflower grant programs to municipal, county, and community-based groups in the state. The Wildflower Foundation, Inc., shall develop procedures of operation, research contracts, education and marketing programs, and wildflower planting grants for Florida native wildflowers, plants, and grasses. The committee substitute allows a maximum of 15 percent of the proceeds from the sale of the license plates to be used for administrative costs and marketing.

Section 2 amends s. 403.413, F.S., to clarify who is liable for dumping under the litter law.

Section 3 amends s. 403.4131, F.S., to delete the statutory provisions relating to Keep Florida Beautiful, Inc. and the Wildflower Advisory Council that was created within Keep Florida Beautiful, Inc. This section also deletes obsolete language relating to recycling and education grants. All of the grants were incorporated into the language relating to small county consolidated grants in s. 403.7095, F.S.

Section 4 amends s. 403.41315, F.S., to conform to the changes made in s. 403.4131, F.S., relating to Keep Florida Beautiful, Inc.

Section 5 amends s. 403.4133, F.S., to place the Adopt-a-Shore Program that was created within Keep Florida Beautiful, Inc. in the DEP.

Section 6 amends s. 403.703, F.S., to place the definitions used in the Solid Waste Management Act in alphabetical order. In addition, the following definitions are also amended: “clean debris”, “closure”, “construction and demolition debris”, “white goods”, and “yard trash.” The following definitions are deleted: “biomedical waste generator” and “pelletized paper waste”; and the definition of “landfill” is moved from s. 403.7125, F.S.

Section 7 amends s.403.704, F.S., to delete certain obsolete language and dates relating to the DEP’s powers and duties. Such provisions include:

- Holding public hearings to develop rules to implement the state’s solid waste management program. This is obsolete because rulemaking provisions of s. 120.54, F.S., include workshops and hearings.
- Charging certain fees for certain solid waste management services. The DEP does not provide solid waste management services.
- Acquiring personal or real property for the purpose of providing sites for solid waste management facilities. The DEP does not provide sites for solid waste management facilities.
- Receiving funds from the sale of certain products, materials, fuel, or energy from any state-owned or operated solid waste facility. The DEP does not operate solid waste management facilities.
- Deleting certain requirements for Class II landfills. There are no longer Class II landfills being permitted in Florida.
- Conducting solid waste research to be used in the implementation of certain landfill closure rules. Landfill closure methods have been developed and the rules have been in place for nearly 20 years.
- Authorizing variances from the solid waste closure rules. Variances are already allowed under s. 403.201, F.S., and s. 120.54, F.S., for any solid waste rule, not just closure rules.

Section 8 amends s. 403.7043, F.S., to delete obsolete language relating to compost standards rulemaking.

Section 9 amends s. 403.7045, F.S., to clarify that industrial byproducts are not regulated under the SWMA if those byproducts are not discharged, deposited, injected, dumped, spilled, leaked or placed upon any land or water so that they constitute a threat of environmental contamination or pose a significant threat to public health.

Also, certain dredged material that is generated as part of a project permitted under part IV of ch. 373, F.S., or ch. 161, F.S., or that is authorized to be removed from sovereign submerged lands under ch. 253, F.S., shall be managed in accordance with the conditions of that permit or authorization unless the dredged material is regulated as a hazardous waste. However, nothing in this section shall be construed to require the routine testing of dredged material for hazardous substances unless there is a reasonable expectation that such substances will be present.

Section 10 amends s. 403.705, F.S., to correct a cross reference.

Section 11 amends s. 403.7061, F.S., to allow, rather than require, the DEP to initiate certain rulemaking regarding waste-to-energy (WTE) facilities. This addresses a concern that the Joint Administrative Procedure Committee had regarding rulemaking. The changes the Legislature made to the provisions relating to WTE facilities in 2005 regarding the expansion of existing WTE facilities or the construction of new WTE facilities do not necessitate the need for the DEP to initiate rulemaking. This would allow the DEP to do so if the need for rules arises in the future.

Section 12 amends s. 403.707, F.S., to allow the DEP to exempt, by rule, certain facilities from the requirement for a permit if the construction or operation of the facility is not expected to create any significant threat to the environment or public health. An example would include the registration of yard trash processing facilities. For purposes of Part IV of ch. 403, F.S., (Resource Recovery and Management), and only when specified by DEP rule, permits may include other forms of licenses as defined in s. 120.52, F.S. This is intended to address an issue the Joint Administrative Procedures Committee has raised regarding DEP's authority to provide such exemptions, even if they are technically justified.

Provisions relating to biomedical incinerators are deleted. Biomedical incinerators are currently regulated under DEP's air rules.

Counties may exempt certain material from the definition of "construction and demolition debris" under certain conditions to promote an integrated solid waste management program.

This section is further amended to clarify that a permit to operate a solid waste management facility may not be transferred by the permittee to any other entity without the consent of the DEP. Further, no permit may be transferred until proof of financial assurance required by department rule is provided by the proposed new permittee. If the existing permittee is under a continuing obligation to perform corrective actions as a result of a department enforcement action or consent order, the permit may not be transferred until the proposed new permittee agrees in writing to accept responsibility for performing such corrective actions. Until the transfer is approved by the DEP, the existing permittee is liable for compliance with the terms of the permit, including the financial assurance requirements.

When the transfer of the permit to the new owner or operator is approved, the DEP shall return any means of proof of financial assurance held by the original permittee to the original permittee and he or she shall be released from his or her permit obligations.

The “Application for Transfer of Permit” shall clearly state in bold letters that the permit cannot be transferred without proof of financial assurance. Until the permit is transferred, the new owner or operator may not operate the facility without the express consent of the original permittee.

The DEP is authorized to adopt rules relating to the transfer of permits.

Section 13 creates s. 403.7071, F.S., to provide for the management of storm-generated debris resulting from a storm event that is the subject of an emergency order by the DEP.

To the greatest extent practicable, recycling and reuse of storm-generated vegetative debris is encouraged. Such recycling and reuse must be conducted in accordance with applicable DEP regulations and may include, but is not limited to, chipping and grinding of the vegetative debris to be beneficially used as a ground cover or as a soil amendment, composting of the vegetative debris, and the burning of such chipped vegetative debris as fuel for any applicable commercial or industrial application.

The DEP may issue field authorizations for staging areas in those counties affected by a storm event. These staging areas may be used for the temporary storage and management of storm-generated debris, including the chipping, grinding, or burning of vegetative debris. To the greatest extent possible, staging areas may not be located in wetlands or other surface waters. The area that is used or affected by a staging area must be fully restored upon cessation of the use of the area.

Storm-generated vegetative debris managed at a staging area may be disposed of in a permitted lined or unlined landfill, a permitted land clearing debris facility, a permitted or certified WTE facility, or a permitted C&D debris disposal facility. Vegetative debris may also be managed at a permitted waste processing facility or a registered yard trash processing facility.

C&D debris that is mixed with other storm-generated debris need not be segregated from other solid waste prior to disposal in a lined landfill. C&D debris that is source-separated or separated from other hurricane-generated debris at an authorized staging area, or at another area specifically authorized by the DEP, may be managed at a permitted C&D debris disposal facility, a Class III landfill, or a recycling facility upon approval by the DEP of the methods and operations practices used to inspect the waste during segregation.

Unsalvageable refrigerators and freezers containing solid waste, such as rotting food, which may create a sanitary nuisance may be disposed of in a permitted lined landfill; however, chlorofluorocarbons and capacitors must be removed and recycled to the greatest extent practicable.

Local governments or their agents may conduct the burning of storm-generated yard trash and other vegetative debris in air-curtain incinerators without prior notice to the DEP. Demolition debris may also be burned in air-curtain incinerators if the material is limited to untreated wood. Within 10 days after commencing such burning, the local government must provide certain information to the DEP. The operator of the air-curtain incinerator is subject to any requirement to obtain an open-burning authorization from the Division of Forestry of the DACS or any other agency empowered to grant such authorization.

Any person conducting open burning of vegetative debris piles is subject to the requirements for obtaining authorizations from the Division of Forestry.

Section 14 amends s. 403.708, F.S., to delete some obsolete dates and to delete the term “degradable” because the term is not used in this section.

Section 15 amends s. 403.709, F.S., to clarify that the funding for litter prevention and control will be used by certified Keep America Beautiful Affiliates at the local level.

This section is also amended to place time restrictions on certain liens imposed by the DEP.

Section 16 amends s. 403.7095, F.S., to broaden the provisions relating to innovative grants. “Innovative” means that the process, technology, or activity for which funding is sought has not previously been implemented within the jurisdiction of the applicant. The grants must demonstrate technologies or processes that represent a novel application of an existing technology or process to recycle or reduce waste.

Section 17 amends s. 403.7125, F.S., to delete the definitions of “landfill” and “closure” from this section. These definitions appear in s. 403.704, F.S.

The committee substitute limits the use of an escrow account for the closure of a landfill to those landfills owned or operated by a local or state government or the Federal Government. Privately-owned or operated landfills must provide other means of financial responsibility for the closure of landfills. However, any landfill owner or operator that had established an escrow account in accordance with the escrow provisions of this section and the conditions of its permit prior to January 1, 2006, may continue to use that escrow account to provide financial assurance for closure of that landfill, even if that landfill is not owned or operated by a local or state government or the Federal Government.

An owner or operator of a landfill owned or operated by a local or state government or by the Federal Government may provide other means of financial assurance to the DEP in lieu of the escrow account.

Section 18 amends s. 403.716, F.S., to delete provisions relating to the training of operators for WTE facilities, biomedical waste incinerators, and mobile soil thermal treatment units or facilities. The operators of these facilities are subject to the DEP’s rules relating to training requirements under the DEP’s air permits. There has never been a separate solid waste training program for these operators.

Section 19 amends s. 403.717, F.S., to revise the definitions of “waste tire” and “waste tire processing facility.” The term “waste tire” will not include solid rubber tires and tires that are inseparable from the rim. These constitute a small percentage of the discarded tires and these tires are not amenable to recycling. Further, they pose little threat of fire, floating in standing water, or mosquito breeding.

The term “waste tire processing facility” is amended to provide consistency with the term “processed tire.”

The provisions requiring a tire storage permit for a tire retreading business where fewer than 1,500 waste tires are kept on the premises is deleted. Currently, no permit is needed for storage of less than 1,500 tires anywhere.

Section 20 amends s. 403.7221, F.S., and transfers, and renumbers that section as s. 403.70715, F.S. The DEP is allowed to issue a research, development, and demonstration permit to the owner or operator of any solid waste management facility, including any hazardous waste management facility who proposes to utilize an innovative and experimental solid waste treatment technology or process for which permit standards have not been adopted.

The time periods for such permits is extended from 1 year to 3 years, renewable no more than 3 times. This would remove a conflict with a similar Environmental Protection Agency rule regarding their research, development, and demonstration permits.

Section 21 amends s. 403.722, F.S., to clarify who must obtain a permit to construct, modify, operate, or close a hazardous waste disposal, storage, or treatment facility. This section is also amended to provide for authorizations issued by the DEP to include both permits and clean closure orders.

The bill further clarifies that if an owner or operator of a hazardous waste facility intends to or is required to discontinue operation, the temporary operation permit must include final closure conditions.

Section 22 amends s. 403.7226, F.S., to delete a separate report on hazardous waste management. This information is included in the DEP’s *Solid Waste Management in Florida* report.

Section 23 amends s. 403.724, F.S., to provide that authorizations for hazardous waste facilities include both permits and clean closure plan orders. Further, the amount of financial responsibility that is required for hazardous waste facilities includes the probable costs of properly closing the facility and performing corrective action.

Section 24 amends s. 403.7255, F.S., to clarify that signs must be placed by the owner or operator at any site in the state which is listed or proposed for listing on the Superfund Site List or any site identified by the DEP as a site contaminated by hazardous waste where this is a risk of exposure to the public. The DEP shall establish requirements and procedures for the placement of signs, and may do so in rules, permits, orders, or other authorizations.

Section 25 amends s. 403.726, F.S., to allow the DEP to issue an order requiring the prompt abatement of an imminent hazard caused by a hazardous substance. Currently, the DEP may only issue a permit to abate such hazards.

Section 26 amends s. 403.7265, F.S., to delete a requirement for an obsolete statewide hazardous waste management plan. Also, this section is amended to require that local governments match

25 percent of the grant amount for certain hazardous waste collection grants. Currently, eligible local governments may receive up to \$50,000 in grant funds for unique and innovative projects that improve the collection of hazardous waste and lower the incidence of improper management of conditionally exempt or household waste, provided they match the grant amount. This bill would reduce the local match requirement to 25 percent of the grant amount; however, if the DEP finds that the project has statewide applicability and has immediate benefits to other local hazardous waste collection programs in the state, matching funds are not required.

Sections 27 and 28 repeal the following sections: ss. 403.7075, 403.756, 403.7895, 403.78, 403.781, 403.782, 403.783, 403.784, 403.7841, 403.7842, 403.785, 403.786, 403.787, 403.7871, 403.7872, 403.7873, 403.788, 403.7881, 403.789, 403.7891, 403.7892, and 403.7893, F.S.

Section 403.7075, F.S., relates to the submission of plans by certain persons to construct and operate a solid waste facility. This section conflicts with the provisions in ch. 471, F.S., which regulate professional engineers.

Section 403.756, F.S., relates to a used oil report. This information will be included in the DEP's *Solid Waste Management in Florida* report.

Section 403.7895, F.S., relates to the requirements for the permitting and certification of commercial hazardous waste incinerators and the requirement for a determination of need by the Governor and Cabinet sitting as the Statewide Multipurpose Hazardous Waste Facility Siting Board.

Sections 403.78, 403.781, 403.782, 403.783, 403.784, 403.7841, 403.7842, 403.785, 403.786, 403.787, 403.7871, 403.7872, 403.7873, 403.788, 403.7881, 403.789, 403.7891, 403.7892, and 403.7893, F.S., relate to the Statewide Multipurpose Hazardous Waste Facility Siting Act. This act has never been used and it is unlikely that a facility will ever be sited in Florida using these provisions.

Section 29 provides that this act shall take effect July 1, 2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The committee substitute does not require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by s.18, Art. VII, State Constitution.

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:

There is not anticipated to be an economic impact on the general public. Many of the committee substitute's provisions remove outdated or obsolete provisions and clarify several provisions as they relate to local governments and the Department of Environmental Protection.

C. Government Sector Impact:

Since Keep Florida Beautiful, Inc., is a nonfunctioning entity, the committee substitute deletes the provisions relating to Keep Florida Beautiful, Inc. To maintain the Wildflower planting program, the annual use fee proceeds from the sale of the Wildflower license plate will go to the Wildflower Foundation, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code, to continue the wildflower planting program and market Florida wildflowers. In the event the Wildflower Foundation, Inc., ceases to be an active 501(c)(3) nonprofit corporation, the annual use fee proceeds from the Wildflower license plate will go to the Department of Agriculture and Consumer Services, and they will administer the program.

The DEP will no longer be required to submit separate reports regarding hazardous waste management and used oil. This information will be consolidated in the department's *Solid Waste Management in Florida* report, thereby potentially saving personnel time and publication costs.

The changes proposed to the innovative grant program will allow more projects to become eligible for funding.

In order to be eligible to receive a hazardous waste collection grant, local governments currently must match the entire grant amount. The committee substitute reduces the match requirement to 25 percent of the grant amount, and allows the match to be waived under certain circumstances. This would allow more local governments to take advantage of this grant program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

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