

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Commerce Committee

BILL: CS/SB 692

INTRODUCER: Senator Jones

SUBJECT: Recycling

DATE: April 8, 2008

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Branning</u>	<u>Kiger</u>	<u>EP</u>	<b>Favorable</b>
2.	<u>McKay</u>	<u>Wilson</u>	<u>GO</u>	<b>Fav/1 amendment</b>
3.	<u>Rogers</u>	<u>Cooper</u>	<u>CM</u>	<b>Fav/CS</b>
4.	_____	_____	<u>GA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

This CS requires each state agency, the judicial branch of state government, and the State University System to collect and sell, to the greatest extent practicable, aluminum, glass, and plastic beverage containers. Also, each organization, association, business, or institution operating in the state and receiving state funds, and each public airport operating in this state, must, to the greatest extent practicable, collect aluminum beverage cans and recyclable plastic and glass and offer such materials for recycling.

This CS substantially amends s. 403.7145, F.S.

**II. Present Situation:**

Section 403.714, F.S., currently requires each state agency, the judicial branch of state government, and the State University System to establish a program, in cooperation with the Department of Environmental Protection and the Department of Management Services for the collection of all recyclable materials generated in state offices and institutions throughout the state, including, at a minimum, aluminum, high-grade office paper, and corrugated paper.

Section 403.7145, F.S., also provides that each state agency, the judicial branch of state government, and the State University System shall collect and sell, to the greatest extent practicable, recyclable materials and products used during the operation of facilities and offices. This section further provides that these entities may use the proceeds of the sale of such materials and products for employee benefits and other purposes and thereby provide for employees to participate in the recycling program. The proceeds from the sale of recyclable materials may also be used to offset any recycling program costs. This section, however, does not specify what those recyclable materials are.

In December 2006, the Natural Resources Defense Council (NRDC) released a report entitled "*How Airlines and Airports Can Clean Up Their Recycling Programs.*" In a press release issued by the NRDC on December 12, 2006, the NRDC stated that the airlines in the U.S. throw away enough aluminum cans every year to build 58 new 747s and it was the same way with paper and plastic. The NRDC looked at 30 airports around the country and found that most were leaving money on the table by not taking advantage of recycling opportunities. In its survey of the 30 airports, nine airports stated that state, county, or city regulations require them to implement recycling programs. There is no state law in Florida to require recycling at airports.

### III. Effect of Proposed Changes:

**Section 1** amends s. 403.7145, F.S., to specifically provide that each state agency, the judicial branch of state government, and the State University System must collect and sell, to the greatest extent practicable, aluminum, glass, and plastic beverage containers, and other recyclable materials.

This section is also amended to require each organization, association, business, or institution operating in the state and receiving state funds to collect aluminum beverage cans, recyclable plastic and glass, to the greatest extent practicable, and offer such materials for recycling. Each business, association, or organization may retain and use any proceeds received from the sale of these materials for recycling to offset the costs associated with collecting and recycling such materials.

This section is further amended to provide that each public airport operating in Florida must, to the greatest extent practicable, collect aluminum beverage cans and recyclable plastic and glass from the airlines and other entities doing business at the airport and offer such materials for recycling. Each airport may retain and use any proceeds received from the sale of these materials for recycling to offset the costs associated with collecting and recycling such materials.

Finally, The CS provides that airport administration offices, airport vendors, and airlines are encouraged to coordinate the collection of recyclable waste, and that the requirements of subsection (4) are not intended to interfere with existing recycling activity.

**Section 2** provides an effective date of July 1, 2008.

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

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

The CS requires that each organization, association, business, or institution operating in the state and receiving state funds, and each airport operating in the state, must recycle “to the greatest extent practicable.” The phrase “to the greatest extent practicable” is not defined, and without standards, could be interpreted very narrowly or broadly, depending on the imagination and interpretation of the entity attempting to comply with the requirement. Because the phrase is not defined and therefore could be interpreted differently by different entities, such a standardless delegation may run afoul of the Separation of Powers doctrine enshrined in Article II, section 3, of the Florida Constitution, which requires that fundamental and primary policy decisions must be made by the Legislature and administration of legislative programs must be pursuant to some minimal standards and guidelines ascertainable by reference to the enactment establishing the program.<sup>1</sup>

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

This CS would require any association, business, or organization that receives any state funds to establish a recycling program for aluminum beverage cans and recyclable plastic and glass, to the greatest extent practicable. It is not known how many entities would be affected by this provision. There may be parts of the state where collection services for recyclable materials do not exist. The CS, however, provides that these organizations are required to recycle, to the greatest extent practicable. Also, these entities may retain and use any proceeds they receive from the sale of recyclable materials to offset their costs. There could be a reduction in waste disposal costs if those materials are diverted from the waste stream and offered for recycling.

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<sup>1</sup> *Avatar Development Corp. v. State*, 723 So.2d 199, 202 (Fla. 1998), citing *Askew v. Cross Key Waterways*, 372 So.2d 913 (Fla. 1978).

If this CS increases the demand for recycling services, there should be an increase in employment opportunities because of increased activity in the recycling markets.

**C. Government Sector Impact:**

Each state agency, the judicial branch, and the State University System are already statutorily required to recycle certain items. This CS reinforces that requirement. For those state agencies and others that have not been collecting these items for recycling, there could be some initial costs for the program setup such as for recycling bins and carts. Any moneys received from the sale of such recyclable materials can be used to offset any such costs.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The CS appears to require that all entities with any contractual relationships with the state comply with the recycling requirements, and do so at *all* locations where the entity does business. Read broadly, the CS appears to require any business receiving money from the state to recycle at all of its locations, including locations outside Florida.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**Committee Substitute by Commerce on April 8, 2008:**

The CS provides that airport administration offices, airport vendors, and airlines are encouraged to coordinate the collection of recyclable waste, and that the requirements of subsection (4) are not intended to interfere with existing recycling activity.

**B. Amendments:**

None.