

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.

Finally, 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.

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 bill 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.¹

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

None.

B. Private Sector Impact:

This bill 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 bill, 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.

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

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

C. **Government Sector Impact:**

Each state agency, the judicial branch, and the State University System are already statutorily required to recycle certain items. This bill 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 bill 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 bill 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.)

None.

B. **Amendments:**

Barcode 355366 by Governmental Operations on March 27, 2008:

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.