

**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 Governmental Oversight and Accountability Committee

BILL: CS/SB 1462

INTRODUCER: Committee on Environmental Preservation and Conservation and Senator Constantine

SUBJECT: Recycling

DATE: April 18, 2009                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Uchino	Kiger	EP	<b>Fav/CS</b>
2.	McKay	Wilson	GO	<b>Favorable</b>
3.			RC	
4.				
5.				
6.				

<b>Please see Section VIII. for Additional Information:</b>	
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:**

The bill creates the Recycling Business Assistance Center (RBAC) as a cooperative entity between the Department of Environmental Protection (department) and the Office of Tourism, Trade and Economic Development (OTTED); provides for minimum requirements and responsibilities of the RBAC; directs the OTTED to consult with Enterprise Florida, Inc., and other state personnel serving as economic liaisons; and, directs the department to conduct inspections of waste-to-energy facilities with limited notice.

The bill provides for an effective date of July 1, 2009.

The bill substantially amends sections 14.2015, 403.7032 and 403.707, and repeals section 288.1185 of the Florida Statutes.

## II. Present Situation:

Recycling in Florida is a large industry. The Florida Recycling Economic Information Study<sup>1</sup> released by the department in 2000 shows Florida hosts nearly 3,700 recycling and reuse establishments that employ approximately 32,000 people and generate an annual payroll of \$765 million and \$4.4 billion in annual revenues. The current numbers are likely greater considering that over 6.8 million tons were recycled in 1999 and over 8.5 million tons were recycled in 2006, the latest year for which records are available.<sup>2</sup>

During the 1990s, the department had one staff member operating a limited RBAC that was funded from three grants from the United States Environmental Protection Agency awarded to the department from 1996 to 2000. The funding was depleted by 2002. The department maintained the RBAC's website for a couple of years after the funding ran out, but the RBAC was not operational during this time.<sup>3</sup>

The Recycling Markets Advisory Committee (committee), organized under section 288.1185, F.S., and operating under a Memorandum of Agreement between the OTTED and the department exists in statute only. The committee was funded by the Advance Disposal Fee on bottles containing less than 40 percent recycled materials implemented in the revised Solid Waste Management Act of 1993. The act set up a one-cent fee per bottle of which twelve percent of revenues generated were dedicated to improving recycling markets. The bottle fee was only in effect for two years and sunsetted in 1995. Shortly after 1995, interest in staffing and running the committee diminished. Although, it is still in statute, it has not convened in over a decade.<sup>4</sup>

The department administers three recycling market development programs through grants and loans. The first is the Florida Recycling Loan Program. This program, administered by the Florida First Capital Finance Corporation for the department, provides below market financing for companies that manufacture products from recycled materials or convert recyclable materials into raw materials for use in manufacturing. The program offers funding for the purchase of machinery and equipment at a fixed interest rate as low as two percent below the Prime Lending Rate for the life of the loan, which can be up to ten years. The maximum loan amount is \$200,000. The program is limited to for-profit small businesses that are legally licensed and operating in Florida, are creditworthy start-up companies or are out-of-state firms considering expansions into Florida. Eligible recycling companies must have a net worth less than \$6 million and have less than 100 employees.<sup>5</sup>

The second is the Innovative Recycling/Waste Reduction Grants program. In 1997, the Legislature directed the department to make grant funds available to counties and municipalities on a competitive basis for innovative programs related to recycling. No grants were awarded

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<sup>1</sup> Available at <[http://www.dep.state.fl.us/waste/quick\\_topics/publications/shw/recycling/finalrpt\(exec\).pdf](http://www.dep.state.fl.us/waste/quick_topics/publications/shw/recycling/finalrpt(exec).pdf)>. Retrieved 6 Apr. 2009.

<sup>2</sup> The Department of Environmental Protection. Retrieved 6 Apr. 2009. <<http://www.dep.state.fl.us/waste/categories/recycling/default.htm>>.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*

<sup>5</sup> Information provided by the Florida First Capital Finance Corporation and DEP. Available at <<http://www.fffc.com/PROD-RECY-Description.html>>. Retrieved 6 Apr. 2009.

between fiscal years 2001-03 because the Legislature allocated no money for those years. However, during its 2002 regular session, the Legislature reinstated the innovative grants program beginning with fiscal year 2003-04. Since then, the Legislature has allocated almost \$8 million dollars for the program.

The last is the Small County Consolidated Grants program. There are 34 small counties currently receiving grants. The Legislature allocated almost \$9.5 million for these grants for fiscal year 2008-09, which are equally distributed among the 34 counties that qualify. The counties that receive these grants may use them to conduct any activities relating to solid waste management activities, including recycling.<sup>6</sup>

The Energy, Climate Change, and Economic Security Act of 2008 established a new 75 percent recycling goal to be achieved statewide by the year 2020. Also, the act directs the department to develop a program designed to achieve this goal and submit it to the Legislature for approval by January 1, 2010. In 2006, over 35 million tons of total municipal solid waste, including commercial waste and construction and demolition debris, were collected. Of this, only 24 percent of the total tonnage was recycled. This represents the lowest percentage of recycled materials in Florida since 1991.<sup>7</sup>

Additionally, s. 403.707, F.S., gives the department permitting authority for solid waste management facilities, including those operating as waste-to-energy facilities. According to the department, all solid waste districts except the South East District conduct unannounced solid waste inspections at waste-to-energy facilities, unless they are investigating complaints and need to coordinate with the facility. The department's Air Division also inspects waste-to-energy facilities; however, they usually combine their inspections with required stack tests. In order to coordinate those inspections and tests, the facilities usually know the date of the inspection and test. The department has no statutory requirement to conduct unannounced inspections of waste-to-energy facilities for either solid waste or air permits.

### III. Effect of Proposed Changes:

**Section 1** amends s. 403.7032, F.S., to add a new subsection (4) providing for the creation of the Recycling Business Assistance Center (RBAC) by the department in cooperation with the OTTED. Specific minimum duties of the RBAC must include but are not limited to the following:

- Identifying and developing new markets and expanding and enhancing existing markets for recyclable materials;
- Pursuing expanded end uses for recyclable materials;
- Evaluating specific materials suitable for concentrated market-development efforts;
- Developing incentive proposals for targeted materials;
- Providing guidance for a variety of recycling issues, such as permitting, financing and facility siting;

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<sup>6</sup> Information provided by DEP.

<sup>7</sup> The Department of Environmental Protection. Retrieved 6 Apr. 2009.  
<<http://www.dep.state.fl.us/waste/categories/recycling/default.htm>>.

- Coordinating the optimization of supply and demand between various governmental entities and the private sector for recyclable materials;
- Evaluating source-reduced products for state procurement;
- Providing grants and loans to various governmental entities and the private sector to improve recycling in the state;
- Maintaining a continuously updated online directory of recycling entities, both public and private, that is searchable by the public; and
- Providing and distributing materials on the benefits of recycling and using recycled products to both public and private entities.

**Section 2** amends s. 14.2015, F.S., to add a new subsection (11) providing for the creation of the Recycling Business Assistance Center by the OTTED in cooperation with the department. The CS directs the OTTED to consult with Enterprise Florida, Inc., and other state personnel appointed as economic development liaisons pursuant so s. 288.021, F.S.

**Section 3** amends s. 403.707, F.S., to add new subsection (8) providing for at least one inspection per year of waste-to-energy facilities to determine permit compliance. These inspections must be carried out by the department with only 24-hours notice given prior to the inspection.

**Section 4** repeals s. 288.1185, F.S., relating to the creation and operation of the Recycling Markets Advisory Committee.

**Section 5** provides for an effective date of July 1, 2009.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

Private entities in the recycling industry in Florida may see a potential benefit from the creation of the RBAC. Its purpose is to develop and enhance markets and partnerships between suppliers of materials and those who demand them. However, the fiscal impact is indeterminate.

**C. Government Sector Impact:**

The cost of creating and running the RBAC is indeterminate. However, based on an analysis of similar programs from other states, it is unlikely that either the department or the OTTED will be able to meet the requirements of staffing and operating the RBAC with existing staff and resources. For example, the North Carolina Recycling Business Assistance Center is staffed by four full-time and two part-time positions and the Pennsylvania Recycling Markets Center is staffed by five full-time positions.

**VI. Technical Deficiencies:**

The bill is contradictory on which entity creates the center. Section 1 of the bill requires the DEP to create the center in cooperation with the OTTED; section 2 of the bill requires the OTTED to create the center in cooperation with the DEP, and to consult with Enterprise Florida and state agency economic development liaisons. Because the center is empowered to provide financing and grants, the bill should provide clarity on who actually creates and operates the center.

The bill lacks a funding source and staffing requirements, if any, for the RBAC's operation.

**VII. Related Issues:**

A "center" is not an entity specified in Chapter 20, F.S., which provides the organizational structure of the executive branch. Though the Legislature in recent years may have created centers, without a general statutory context, it is difficult to determine how duties and responsibilities of a center apply to affected entities. For example, the bill specifies that the center "coordinate" the efforts of various governmental entities, but it is unclear how the center's coordination authority would affect the authority and duties of those governmental entities.

The Department of Management Services (DMS) plays a centralized role in the procurement of commodities and services, pursuant to Ch. 287, F.S. Section 287.045, F.S., requires the DMS to work in cooperation with the DEP in regards to purchasing products with recycled content. The bill requires the center to evaluate source-reduced products as they relate to state procurement policy. These duties could be done in cooperation with the DMS, or specified as duties of the DMS within s. 287.045, F.S.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Environmental Preservation and Conservation on April 6, 2009:**

The CS changes the originally filed bill in the following ways:

- Creates the Recycling Business Assistance Center (RBAC) in cooperation between the department and the OTTED;
- Provides for minimum requirements and responsibilities of the RBAC;
- Directs the OTTED to consult with Enterprise Florida, Inc., and other state personnel serving as economic liaisons;
- Directs the department to conduct at least one inspection per year of waste-to-energy facilities with only 24-hours notice given.
- Repeals s. 288.1185, F.S.

- B. **Amendments:**

None.