

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 455 Comprehensive Waste Reduction and Recycling Plan

**SPONSOR(S):** Casello and others

**TIED BILLS:** IDEN./SIM. **BILLS:** SB 36

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture, Conservation & Resiliency Subcommittee		Gawin	Moore
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) Infrastructure Strategies Committee			

**SUMMARY ANALYSIS**

Recycling is any process by which solid waste, or materials that would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or intermediate or final products. In 2008, the Legislature set a statewide goal to recycle at least 75 percent of municipal solid waste (MSW) by 2020. The Department of Environmental Protection (DEP) established numerous programs and initiatives to reach the 75 percent recycling goal. In 2010, the Legislature built on this goal by requiring counties to implement local recycling programs with interim goals of recycling MSW. Each Florida county has the authority and responsibility to provide for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the county.

While Florida achieved the interim goals for 2012 and 2014, the state’s recycling rates did not meet the 2020 75 percent recycling goal. DEP was required to submit a report to the President of the Senate and the Speaker of the House of Representatives each year in which the interim recycling goals were not met. In 2021, DEP released its final report titled “Florida and the 2020 75% Recycling Goal” (2020 report). The 2020 report outlines various recommendations to increase recycling within the state.

The bill requires DEP, by July 1, 2025, to develop a comprehensive waste reduction and recycling plan (plan) for the state based on recommendations from the 2020 report. DEP must also convene a technical assistance group to help develop the plan. At a minimum, the bill requires the plan to identify recycling goals based on sustainable materials management and waste diversion and include a three-year plan to implement certain specified policies.

Upon completion of the plan, the bill requires DEP to provide a report to the President of the Senate and the Speaker of the House of Representatives. The report must include an update on the status of the plan and any recommendations for statutory changes necessary to achieve the recycling goals or strategies identified in the plan.

The bill may have an indeterminate negative fiscal impact on the state.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Recycling

Recycling is any process by which solid waste, or materials that would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or intermediate or final products.<sup>1</sup> These materials or products include, but are not limited to, crude oil, fuels, and fuel substitutes.<sup>2</sup> Local governments are responsible for collecting and transporting solid waste to solid waste processing facilities where the recyclables are separated by category.<sup>3</sup>

##### Florida's Recycling Goal

In 2008, the Legislature set a statewide goal to recycle at least 75 percent of municipal solid waste (MSW)<sup>4</sup> by 2020.<sup>5</sup> The Department of Environmental Protection (DEP) established numerous programs and initiatives to reach the 75 percent recycling goal.<sup>6</sup> In 2010, the Legislature built on this goal by requiring counties to implement local recycling programs with interim goals of recycling MSW as follows:<sup>7</sup>

Recycling Goal	Goal Date
40 percent	December 31, 2012
50 percent	December 31, 2014
60 percent	December 31, 2016
70 percent	December 31, 2018
75 percent	December 31, 2020

While Florida achieved the interim goals for 2012 and 2014, the state's recycling rate for 2016 was 56 percent, falling short of the 60 percent goal.<sup>8</sup> Between 2016 and 2020, Florida's statewide recycling rate continued to decline, with a rate of 52 percent in 2019 and 50 percent in 2020.<sup>9</sup> Only three of Florida's 36 large counties—Charlotte, Lee, and Pinellas—successfully met the 75 percent recycling goal by 2020.<sup>10</sup> In 2022, the single-family recycling participation rate was 48 percent, which was a 4 percent increase from 2020 but a 3 percent decrease from 2021.<sup>11</sup> Commercial recycling participation rates also showed a slight increase (approximately 1 percent) during the same timeframe.<sup>12</sup>

<sup>1</sup> Section 403.703(31), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Section 403.706(1), F.S.; Municipalities are also authorized to construct and operate solid waste disposal facilities if certain statutory requirements are met. Rule 62-701, F.A.C.; City of Fort Lauderdale, *What Really Happens to Our Recycling*, [https://gyr.fortlauderdale.gov/greener-government/recycling-waste-reduction/our-waste-stream/what-really-happens-to-our-recycling#:~:text=The%20recyclables%20are%20placed%20on,and%20paper%20and%20cardboard%20remain](https://gyr.fortlauderdale.gov/greener-government/recycling-waste-reduction/our-waste-stream/what-really-happens-to-our-recycling#:~:text=The%20recyclables%20are%20placed%20on,and%20paper%20and%20cardboard%20remain.). (last visited Jan. 12, 2024).

<sup>4</sup> "MSW" means any solid waste, except for sludge, resulting from the operation of residential, commercial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service. MSW also includes yard trash but does not include solid waste from industrial, mining, or agricultural operations. Section 403.706(5), F.S.

<sup>5</sup> Section 403.7032, F.S.; MSW is measured by weight. DEP, *Florida and the 2020 75% Recycling Goal: Final Report*, 3, 8 (2020), available at <https://floridadep.gov/waste/permitting-compliance-assistance/documents/75-recycling-goal-final-report>. (last visited Jan. 12, 2024).

<sup>6</sup> DEP, *Recycling*, <http://www.dep.state.fl.us/waste/categories/recycling/default.htm> (last visited Jan. 12, 2024).

<sup>7</sup> Section 403.706(2)(a), F.S.

<sup>8</sup> DEP, *Florida and the 2020 75% Recycling Goal: Final Report* at 2, available at <https://floridadep.gov/waste/permitting-compliance-assistance/documents/75-recycling-goal-final-report>. (last visited Jan. 12, 2024).

<sup>9</sup> *Id.* at 6. Prior to the implementation of the 75 percent recycling goal, Florida's recycling rate, which was calculated based on recycling traditional materials, was 30 percent. If the same methodology was applied to 2020, the recycling rate would be only 25 percent. *Id.*

<sup>10</sup> *Id.* at 9. "Large counties" are those with a population of over 100,000. *Id.*

<sup>11</sup> DEP, *2022 Single-Family Participation in Recycling (2023)*, available at

[https://floridadep.gov/sites/default/files/2022\\_Single\\_Family\\_Participation.pdf](https://floridadep.gov/sites/default/files/2022_Single_Family_Participation.pdf) (last visited Jan. 12, 2024); DEP, *2021 Single-Family*

### Local Government Solid Waste and Recycling Responsibilities

Each Florida county has the authority and responsibility to provide for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the county.<sup>13</sup> Counties may charge reasonable fees for the handling and disposal of solid waste at their facilities.<sup>14</sup> Municipalities are responsible for collecting and transporting solid waste from their jurisdictions to a solid waste disposal facility operated by a county or county contractor.<sup>15</sup> Local governments are also authorized to provide for the collection of recyclable materials.<sup>16</sup> A market must exist for the recyclable materials, and the local government must specifically intend for them to be recycled.<sup>17</sup>

As discussed above, counties are required to implement recycling programs that include the statutory interim goals.<sup>18</sup> These programs must be designed to recover a significant portion of at least four of the following materials from the solid waste stream prior to final disposal at a solid waste disposal facility and to offer these materials for recycling:

- Newspapers;
- Aluminum cans;
- Steel cans;
- Glass;
- Plastic bottles;
- Cardboard;
- Office paper; and
- Yard trash.<sup>19</sup>

In addition, each county must ensure, to the maximum extent possible, that municipalities within its boundaries participate in the preparation and implementation of recycling and solid waste management programs through interlocal agreements or other means provided by law.<sup>20</sup> Counties and municipalities are encouraged to form cooperative arrangements for implementing recycling programs,<sup>21</sup> and must enter into negotiations with a franchisee who is operating to exclusively collect solid waste within a specified service area for a county or municipality.<sup>22</sup>

Certain activities are eligible for special credit towards achieving a county's recycling goals, including the use of solid waste as fuel in a renewable energy facility, the innovative use of yard trash or other clean wood waste or paper waste, and providing opportunities to recycle in counties with smaller populations.<sup>23</sup> To assess progress, counties must provide information on their solid waste management programs and recycling activities to DEP by April 1 of each year.<sup>24</sup> DEP may reduce or modify a

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*Participation in Recycling (2022), available at*

<https://floridadep.gov/sites/default/files/2021%20Single%20Family%20Recycling%20Participation%20in%20Florida.pdf> (last visited Jan. 12, 2024); DEP, *2020 Single-Family Participation in Recycling (2021), available at*

<https://floridadep.gov/sites/default/files/2020%20Single-Family%20Participation%20in%20Recycling.pdf>. (last visited Jan. 12, 2024).

<sup>12</sup> DEP, *2022 Commercial Participation in Recycling (2023), available at*

[https://floridadep.gov/sites/default/files/2022\\_Commercial\\_Participation.pdf](https://floridadep.gov/sites/default/files/2022_Commercial_Participation.pdf) (last visited Jan. 12, 2024); DEP, *2021 Commercial Participation in Recycling (2022), available at*

<https://floridadep.gov/sites/default/files/2021%20Commercial%20Recycling%20Participation%20in%20Florida.pdf> (last visited Jan. 12, 2024); DEP, *2020 Commercial Participation in Recycling (2021), available at*

<https://floridadep.gov/sites/default/files/2020%20Commercial%20Participation%20in%20Recycling.pdf>. (last visited Jan. 12, 2024).

<sup>13</sup> Section 403.706(1), F.S. Municipalities are also authorized to construct and operate solid waste disposal facilities if certain statutory requirements are met. Fla. Admin. Code Ch. 62-701.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> Section 403.706(21), F.S.

<sup>17</sup> *Id.*

<sup>18</sup> Section 403.706(2)(a), F.S.

<sup>19</sup> Section 403.706(2)(f), F.S.

<sup>20</sup> Section 403.706(3), F.S.

<sup>21</sup> Section 403.706(2)(a), F.S.

<sup>22</sup> Section 403.706(9), F.S.

<sup>23</sup> Section 403.706(4), F.S.

<sup>24</sup> Section 403.706(7), F.S.; Rule 62-716.450, F.A.C.

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county's recycling goal if the county demonstrates that the achievement of the goal would have an adverse effect on the financial obligations of the county that are directly related to the county's waste-to-energy facility, and the county cannot remove normally combustible materials from solid waste that is to be processed at a waste-to-energy facility because of the need to maintain a sufficient amount of solid waste to ensure the financial viability of the facility.<sup>25</sup> However, the goal may only be reduced or modified to the extent necessary to alleviate the adverse effects on the financial viability of a county's waste-to-energy facility.<sup>26</sup>

Local governments can require all residential properties, multifamily dwellings, apartment complexes, and industrial, commercial, and institutional establishments to create programs for the separation of recyclable materials designated by the local government.<sup>27</sup> Local governments can also require a commercial establishment to source-separate the recovered materials generated on the premises.<sup>28</sup> However, a local government may not:

- Require a commercial establishment that generates source-separated recovered materials to sell its recovered materials to the local government or to a facility designated by the local government;
- Restrict such a generator's right to sell such recovered materials to any properly certified recovered materials dealer who has satisfied the statutory requirements; or
- Enact any ordinance that prevents such a dealer from entering into a contract with a commercial establishment to purchase, collect, transport, process, or receive source-separated recovered materials.<sup>29</sup>

### DEP's Recycling Report

DEP was required to submit a report to the President of the Senate and the Speaker of the House of Representatives each year in which the interim recycling goals were not met.<sup>30</sup> These reports had to identify additional programs or statutory changes needed to achieve the recycling goals.<sup>31</sup> In 2021, DEP released its final report titled "Florida and the 2020 75% Recycling Goal" (2020 report).<sup>32</sup> According to the 2020 report, Florida generated the equivalent to over two tons of MSW per resident in 2020, which is approximately twice the national average.<sup>33</sup> However, there is no universal methodology for measuring progress toward recycling goals. Moreover, Florida's MSW calculations do not account for tourists, while calculations by the U.S. Environmental Protection Agency and other states do.<sup>34</sup>

In the 2020 report, DEP recommends convening a technical assistance group (TAG) to develop a comprehensive waste reduction and recycling plan for Florida.<sup>35</sup> The TAG, if convened, would include the Florida Recycling Workgroup, local governments, and other interested parties, and the comprehensive plan would implement stakeholder recommendations by:

- Identifying a set of recycling goals that use sustainable materials management<sup>36</sup> and waste diversion<sup>37</sup> concepts;

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<sup>25</sup> Section 403.706(6), F.S.

<sup>26</sup> *Id.*

<sup>27</sup> Section 403.706(21), F.S. Such ordinances may include, but are not limited to, prohibiting any person from knowingly disposing of recyclable materials and ensuring the collection of recovered materials as necessary to protect public health and safety. *Id.*

<sup>28</sup> Section 403.7046(2)(a), F.S.

<sup>29</sup> Section 403.7046(2), F.S.

<sup>30</sup> Section 403.706(2)(e), F.S.; see s. 403.705(3), F.S. DEP must evaluate and report biennially to the President of the Senate and the Speaker of the House on the state's success in meeting the solid waste recycling goal.

<sup>31</sup> Section 403.706(2)(e), F.S.

<sup>32</sup> DEP, *Florida and the 2020 75% Recycling Goal: Final Report* at 2, available at <https://floridadep.gov/waste/permitting-compliance-assistance/documents/75-recycling-goal-final-report>. (last visited Jan. 12, 2024).

<sup>33</sup> *Id.* at 8.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 4.

<sup>36</sup> Sustainable materials management is a term for alternative approaches to recycling that recognize the differences among waste components with respect to environmental and resource outcomes. Sustainable materials management focuses on using and reusing materials more productively over their life cycles. *Id.*

<sup>37</sup> Waste diversion is the process of diverting waste from landfills; it is the amount of material that is reduced, reused, and/or recycled per capita and can be measured by the amount of waste not being disposed of in landfills. Waste diversion reduces disposal costs and the burden on landfills. United States Environmental Protection Agency (EPA), *Waste Diversion at EPA*,

- Developing objectives and proposing a three-year plan to develop a recycling market, education and outreach, and local government assistance; and
- Proposing statutory language to implement the revised recycling goals and strategies.<sup>38</sup>

The 2020 report also provides recommendations from the Florida Recycling Workgroup and a group of local governments, including:

- Replacing the current 75 percent weight-based goal with a goal or set of goals that are better indicators of program performance and desired environmental and economic outcomes;<sup>39</sup>
- Using sustainable materials management to prioritize which materials to recycle based on environmental metrics and market availability and setting recycling goals for these specific materials; and
- Focusing on three strategies: education and outreach, funding and incentives to support local government recycling efforts, and developing recycling markets.<sup>40</sup>

#### *Recycling Education and Outreach*

Education on the types of recycling services available, how materials are collected, and which materials are accepted is important for a successful recycling program. Because recycling programs within the state vary significantly, education should be tailored to local recycling programs.<sup>41</sup>

Currently, DEP operates several education programs, including:

- The Florida Food Waste Prevention Week, which focuses on engagement with local municipalities, universities, national food recovery networks, and the hospitality industry to raise awareness about food waste;
- Phase Three of the Rethink.Reset.Recycle. Program, which focuses on providing counties and municipalities with a variety of customized digital products illustrating correct preparation of recyclables prior to disposing of them; and
- The Recycling Recognition Program, which encourages private businesses, institutions, schools, organizations, and the public to increase recycling by setting recycling goals.<sup>42</sup>

According to the 2020 report, the TAG, if convened, would propose an education and outreach approach that evaluates statewide solutions but is customized for local needs, including a possible application for mobile devices that provides recycling information based on location.<sup>43</sup>

#### *Local Government Assistance*

In 1988, the Solid Waste Management Act required counties to initiate recycling programs to address the growing costs and environmental problems associated with solid waste disposal in the state.<sup>44</sup> To aid counties in setting up recycling programs, the Legislature established the Recycling and Education Grant Program. Under the program, counties received funds for initial capital costs, operations, recycling education, market development, and special projects. The program sunset in 2001.<sup>45</sup>

The 2020 report recommends that the TAG evaluate the benefits and problems of the now defunct Recycling and Education Grant Program, make a recommendation to reinstate the program, or consider other means to provide recycling assistance to local governments.<sup>46</sup>

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<https://www.epa.gov/greeningepa/waste-diversion-epa> (last visited Jan. 12, 2024); DEP, *Florida and the 2020 75% Recycling Goal: Final Report* at 4.

<sup>38</sup> DEP, *Florida and the 2020 75% Recycling Goal: Final Report* at 5, available at <https://floridadep.gov/waste/permitting-compliance-assistance/documents/75-recycling-goal-final-report>. (last visited Jan. 12, 2024).

<sup>39</sup> *Id.* at 3. There is a consensus in Florida's recycling industry (as well as other states and at the federal level) that using a weight-based goal does not result in efficient or effective recycling. *Id.*

<sup>40</sup> *Id.* at 4.

<sup>41</sup> *Id.* at 5.

<sup>42</sup> *Id.* at 20-21.

<sup>43</sup> *Id.* at 4.

<sup>44</sup> *Id.* at 5.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

### *Recycling Market Development*

In order for the recycling industry to operate efficiently and provide reasonable returns on investments, there must be a market for finished goods that are manufactured from recycled materials. When the markets for these finished goods increase, the demand for recycled materials will increase, driving up profitability and incentivizing increased investments in the collection, sorting, processing, and manufacturing sectors.<sup>47</sup>

To increase markets for recyclable materials, DEP recommends in its final report that the following be considered when developing the comprehensive recycling plan:

- Tax incentives for usage of recycled materials as feed stocks in manufacturing processes;
- Tax incentives and credits to support materials recovery plant upgrades;
- Public/private partnerships to invest in new processing technologies;
- Investments in expansion of Recycling Business Assistance Center<sup>48</sup> activities;
- End-user purchase rebates for Florida Certified Compost; and
- Preference programs to use and purchase products made from recycled content material.<sup>49</sup>

### **Effect of the Bill**

The bill requires DEP, by July 1, 2025, to develop a comprehensive waste reduction and recycling plan (plan) for the state based on recommendations from the 2020 report. DEP must convene a TAG to help develop the plan.

At a minimum, the bill requires the plan to identify recycling goals based on sustainable materials management and waste diversion and include a three-year plan to implement the following strategies:

- Recycling education and outreach. DEP must propose statewide solutions to provide local recycling information and education throughout the state.
- Local government recycling assistance. DEP is required to evaluate the benefits and challenges of the former state Recycling and Education Grant Program and provide recommendations for reinstating the program or considering other means of providing recycling assistance to local governments.
- Recycling materials market development. DEP must consider and recommend plans to develop and promote markets for recycling materials.

Upon completion of the plan, the bill requires DEP to provide a report to the President of the Senate and the Speaker of the House of Representatives. The report must include an update on the status of the plan and any recommendations for statutory changes necessary to achieve the recycling goals or strategies identified in the plan.

#### **B. SECTION DIRECTORY:**

Section 1. Amends s. 403.7032, F.S., related to recycling.

Section 2. Provides an effective date of July 1, 2024.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

None.

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<sup>47</sup> *Id.*

<sup>48</sup> The Recycling Business Assistance Center was established in 2010 to coordinate between state agencies and the private sector to develop new markets for recyclable materials locally and globally. DEP, *Recycling Business Assistance Center*, <https://floridadep.gov/waste/waste-reduction/content/recycling-business-assistance-center> (last visited Jan 12, 2024).

<sup>49</sup> DEP, *Florida and the 2020 75% Recycling Goal: Final Report* at 5, available at <https://floridadep.gov/waste/permitting-compliance-assistance/documents/75-recycling-goal-final-report>. (last visited Jan. 12, 2024).

2. Expenditures:

The bill may have an indeterminate negative fiscal impact on DEP associated with convening a TAG and developing the plan.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.