

CHAPTER 98-258

Committee Substitute for Committee Substitute for House Bill No. 1589

An act relating to counties; repealing s. 327, ch. 96-410, Laws of Florida, which provides that once a small county meets the population requirements and qualifies for programs under ss. 40.015, 163.05, 163.3177, 163.3187, 163.3191, 165.061, 212.055, 218.075, 218.65, 252.373, 265.2861, 403.706, and 403.7095, F.S., it shall retain that qualification until it exceeds a population of 75,000; amending s. 34.191, F.S.; authorizing boards of county commissioners to assign collection of past due fines and costs to a private attorney or collection agency and authorizing fees for such purposes; amending ss. 163.05, 163.3177, 163.3191, 165.061, 212.055, 218.075, 252.373, 288.063, 373.441, 403.4131, 403.706, and 403.719, F.S., to increase the maximum population limit to qualify as a small county in provisions that establish a technical assistance program for small counties, that provide that certain elements of a local government comprehensive plan are optional for small counties, that authorize the state land planning agency to enter into agreements with small counties to focus on selected issues or elements when updating their comprehensive plans, that provide population requirements for incorporation of municipalities in small counties, that authorize certain small counties to use proceeds of the local government infrastructure surtax for long-term maintenance costs associated with landfill closure, that authorize the Department of Environmental Protection and water management districts to waive or reduce permit processing fees for small counties under certain conditions, that provide criteria that small counties must meet to qualify for funds from the Emergency Management, Preparedness, and Assistance Trust Fund, that provide that certain small counties are qualified for contracts with the Office of Tourism, Trade, and Economic Development for transportation projects, that require consideration of special provisions when an environmental resource permit program is delegated to small counties, that encourage a regional approach to litter control and prevention programs in small counties, that authorize small counties to provide their residents with the opportunity to recycle in lieu of achieving solid waste reduction goals, and that provide for the use of waste tire grants by small counties; amending s. 403.7061, F.S., to conform; amending s. 218.65, F.S., relating to emergency and supplemental distributions from the Local Government Half-cent Sales Tax Clearing Trust Fund; revising the population limitation for purposes of provisions which exempt small counties from certain criteria imposed to qualify for an emergency distribution; deleting a requirement that a county must be eligible for an emergency distribution in order to qualify for a supplemental distribution; amending s. 403.7095, F.S.; deleting the expiration date for annual solid waste and recycling grants to small counties; creating s. 218.076, F.S.; providing for a waiver of permit

processing fees under certain circumstances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 327 of chapter 96-410, Laws of Florida, is repealed.

Section 2. Subsection (4) is added to section 34.191, Florida Statutes, to read:

34.191 Fines, forfeitures, and costs.—

(4) The board of county commissioners may assign the collection of fines, court costs, and other costs imposed by the court that are past due for 90 days or more to a private attorney or collection agency that is licensed or registered in this state, if the board of county commissioners determines that the assignment is cost-effective and follows established bid practices. The board of county commissioners may authorize a fee to be added to the outstanding balance to offset any collection costs that will be incurred.

Section 3. Subsection (3) of section 163.05, Florida Statutes, is amended to read:

163.05 Small County Technical Assistance Program.—

(3) The purpose of this section is to provide technical assistance to small counties to enable them to implement workable solutions to financial and administrative problems. As used in this section, “small county” means a county that has a population of 75,000 ~~50,000~~ or less.

Section 4. Paragraph (i) of subsection (6) of section 163.3177, Florida Statutes, is amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(i) The optional elements of the comprehensive plan in paragraphs (7)(a) and (b) are required elements for those municipalities ~~units of local government~~ having populations greater than 50,000, and those counties having populations greater than 75,000, as determined under s. 186.901.

Section 5. Paragraph (a) of subsection (12) of section 163.3191, Florida Statutes, is amended to read:

163.3191 Evaluation and appraisal of comprehensive plan.—

(12)(a) The state land planning agency may enter into a written agreement with a municipality of fewer than 5,000 residents or a county with fewer than 75,000 ~~50,000~~ residents so that such a jurisdiction may focus planning resources on selected issues or elements when updating its plan, if the local government includes such a request in its report and the agency

approves the request. Approval of the request does not authorize the local government to repeal or render ineffective any existing portion or element of its local plan.

Section 6. Paragraph (b) of subsection (1) of section 165.061, Florida Statutes, is amended to read:

165.061 Standards for incorporation, merger, and dissolution.—

(1) The incorporation of a new municipality, other than through merger of existing municipalities, must meet the following conditions in the area proposed for incorporation:

(b) It must have a total population, as determined in the latest official state census, special census, or estimate of population, in the area proposed to be incorporated of at least 1,500 persons in counties with a population of 75,000 or less ~~than 50,000~~, and of at least 5,000 population in counties with a population of more than 75,000 ~~50,000~~.

Section 7. Paragraph (d) of subsection (2) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(d)1. The proceeds of the surtax authorized by this subsection and any interest accrued thereto shall be expended by the school district or within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources and to finance the closure of county-owned or municipally owned solid waste landfills that are already closed or are required to close by order of the Department of Environmental Protection. Any use of such proceeds or interest for purposes of landfill closure prior to July 1, 1993, is ratified. Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure, except that any county with a population of less than 75,000 ~~50,000~~ that is required to close a landfill by order of the Department of Environmental Protection may use the proceeds or any interest accrued thereto for long-term maintenance costs associated with landfill closure. Counties, as defined in s. 125.011(1), may, in addition, use the proceeds to retire or service

indebtedness incurred for bonds issued prior to July 1, 1987, for infrastructure purposes.

2. For the purposes of this paragraph, "infrastructure" means:

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and such equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

Section 8. Section 218.075, Florida Statutes, is amended to read:

218.075 Reduction or waiver of permit processing fees.—Notwithstanding any other provision of law, the Department of Environmental Protection and the water management districts shall reduce or waive permit processing fees for counties with a population of 50,000 or less on April 1, 1994, until such counties exceed a population of 75,000 and municipalities with a population of 25,000 or less, or any county or municipality not included within a metropolitan statistical area. Fee reductions or waivers shall be approved on the basis of fiscal hardship or environmental need for a particular project or activity. The governing body must certify that the cost of the permit processing fee is a fiscal hardship due to one of the following factors:

(1) Per capita taxable value is less than the statewide average for the current fiscal year;

(2) Percentage of assessed property value that is exempt from ad valorem taxation is higher than the statewide average for the current fiscal year;

(3) Any condition specified in s. 218.503, that determines a state of financial emergency;

(4) Ad valorem operating millage rate for the current fiscal year is greater than 8 mills; or

(5) A financial condition that is documented in annual financial statements at the end of the current fiscal year and indicates an inability to pay the permit processing fee during that fiscal year.

The permit applicant must be the governing body of a county or municipality or a third party under contract with a county or municipality and the project for which the fee reduction or waiver is sought must serve a public purpose. If a permit processing fee is reduced, the total fee shall not exceed \$100.

Section 9. Section 218.076, Florida Statutes, is created to read:

218.076 Reduction or waiver of certain permit processing fees.—Notwithstanding any other provision of law, the Department of Environmental

Protection shall waive processing fees for renewals of exemptions from the Class G-11 groundwater standards for sodium, odor, chloride, color, and total dissolved solids issued to any county, municipality, or independent special district, with reclaimed water land application facilities for wastewater effluent disposal when such exemptions were granted by the Department by final agency action based upon findings that:

(1) The public will benefit from the land application due to the augmentation of the shallow water aquifer for irrigation use; and

(2) Compliance with the Class G-11 Ground Water Standard for sodium, chloride, color, and total dissolved solids is unnecessary for the protection of present and future potable water supplied; and

(3) The receiving water for the discharge is the local surficial aquifer used only for irrigation and allowed discharge will not impair such use; and

(4) The constituents for which the exemptions are granted are not expected to cause health-related problems at the projected discharge concentrations; and

(5) There is no reasonable relationship between economic, social, and environmental cost of compliance with the Class G-11 Ground Water Standards for sodium, chloride, odor, color, and total dissolved solids, and the economic, social, and environmental benefits of compliance; and

(6) The State of Florida provided the majority of the funds required to construct the wastewater treatment facility creating the discharge effluent; and

(7) The potential benefit of compliance is minor; and

(8) The applicant for the permit renewal has complied with all of the terms and conditions of the exemptions previously approved and which is (are) the subject of the renewal application.

Section 10. Paragraph (a) of subsection (2) and paragraph (a) of subsection (7) of section 218.65, Florida Statutes, are amended to read:

218.65 Emergency distribution.—

(2) The Legislature hereby finds and declares that a fiscal emergency exists in any county which meets the criteria specified in paragraph (a), if applicable, and the criterion specified in paragraph (b):

(a) If the county has a population of 65,000 ~~50,000~~ or above:

1. In any year from 1977 to 1981, inclusive, the value of net new construction and additions placed on the tax roll for that year was less than 2 percent of the taxable value for school purposes on the roll for that year, exclusive of such net value; or

2. The percentage increase in county taxable value from 1979 to 1980, 1980 to 1981, or 1981 to 1982 was less than 3 percent.

(7)(a) Any county ~~eligible for an emergency distribution pursuant to this section~~ the inmate population of which in any year is greater than 7 percent of the total population of the county is eligible for a supplemental distribution for that year from funds expressly appropriated therefor. At the beginning of each fiscal year, the Department of Revenue shall calculate a supplemental allocation for each eligible county equal to the current per capita limitation pursuant to subsection (4) times the inmate population of the county. If moneys appropriated for distribution pursuant to this section for the current year are less than the sum of supplemental allocations, each eligible county shall receive a share of the appropriated amount proportional to its supplemental allocation. Otherwise, each shall receive an amount equal to its supplemental allocation.

Section 11. Paragraph (a) of subsection (3) of section 252.373, Florida Statutes, is amended to read:

252.373 Allocation of funds; rules.—

(3) The department shall allocate funds from the Emergency Management, Preparedness, and Assistance Trust Fund to local emergency management agencies and programs pursuant to criteria specified in rule. Such rules shall include, but are not limited to:

(a) Requiring that, at a minimum, a local emergency management agency either:

1. Have a program director who works at least 40 hours a week in that capacity; or

2. If the county has fewer than ~~75,000~~ 50,000 population or is party to an interjurisdictional emergency management agreement entered into pursuant to s. 252.38(3)(b), that is recognized by the Governor by executive order or rule, have an emergency management coordinator who works at least 20 hours a week in that capacity.

Section 12. Subsection (3) of section 288.063, Florida Statutes, is amended to read:

288.063 Contracts for transportation projects.—

(3) With respect to any contract executed pursuant to this section, the term “transportation project” means a transportation facility as defined in s. 334.03(31) which is necessary in the judgment of the Office of Tourism, Trade, and Economic Development to facilitate the economic development and growth of the state. Except for applications received prior to July 1, 1996, such transportation projects shall be approved only as a consideration to attract new employment opportunities to the state or expand or retain employment in existing companies operating within the state, or to allow for the construction or expansion of a state or federal correctional facility in a county with a population of ~~75,000~~ 50,000 or less that creates new employment opportunities or expands or retains employment in the county. The Office of Tourism, Trade, and Economic Development shall institute procedures to ensure that small and minority businesses have equal access to

funding provided under this section. Funding for approved transportation projects may include any expenses, other than administrative costs and equipment purchases specified in the contract, necessary for new, or improvement to existing, transportation facilities. Funds made available pursuant to this section may not be expended in connection with the relocation of a business from one community to another community in this state unless the Office of Tourism, Trade, and Economic Development determines that without such relocation the business will move outside this state or determines that the business has a compelling economic rationale for the relocation which creates additional jobs.

Section 13. Subsection (1) of section 373.441, Florida Statutes, is amended to read:

373.441 Role of counties, municipalities, and local pollution control programs in permit processing.—

(1) The department in consultation with the water management districts shall, by December 1, 1994, adopt rules to guide the participation of counties, municipalities, and local pollution control programs in an efficient, streamlined permitting system. Such rules shall seek to increase governmental efficiency, shall maintain environmental standards, and shall include consideration of the following:

(a) Provisions under which the environmental resource permit program shall be delegated, upon approval of the department and the appropriate water management districts, to a county, municipality, or local pollution control program which has the financial, technical, and administrative capabilities and desire to implement and enforce the program;

(b) Provisions under which a locally delegated permit program may have stricter environmental standards than state standards;

(c) Provisions for identifying and reconciling any duplicative permitting by January 1, 1995;

(d) Provisions for timely and cost-efficient notification by the reviewing agency of permit applications, and permit requirements, to counties, municipalities, local pollution control programs, the department, or water management districts, as appropriate;

(e) Provisions for ensuring the consistency of permit applications with local comprehensive plans;

(f) Provisions for the partial delegation of the environmental resource permit program to counties, municipalities, or local pollution control programs, and standards and criteria to be employed in the implementation of such delegation by counties, municipalities, and local pollution control programs;

(g) Special provisions under which the environmental resource permit program may be delegated to counties with populations of 75,000 or less, or municipalities with, or local pollution control programs serving, populations of 50,000 or less; and

(h) Provisions for the applicability of chapter 120 to local government programs when the environmental resource permit program is delegated to counties, municipalities, or local pollution control programs.

Section 14. Subsection (5) of section 403.4131, Florida Statutes, is amended to read:

403.4131 “Keep Florida Beautiful, Incorporated”; placement of signs.—

(5) Each county is encouraged to initiate a litter control and prevention program or to expand upon its existing program. The department shall establish a system of grants for municipalities and counties to implement litter control and prevention programs. In addition to the activities described in subsection (1), such grants shall at a minimum be used for litter cleanup, grassroots educational programs involving litter removal and prevention, and the placement of litter and recycling receptacles. Counties are encouraged to form working public private partnerships as authorized under this section to implement litter control and prevention programs at the community level. The grants authorized pursuant to this section shall be incorporated as part of the recycling and education grants. Counties that have a population under 75,000 ~~50,000~~ are encouraged to develop a regional approach to administering and coordinating their litter control and prevention programs.

Section 15. Paragraph (d) of subsection (4) of section 403.706, Florida Statutes, is amended to read:

403.706 Local government solid waste responsibilities.—

(4)

(d) A county with a population of 75,000 ~~50,000~~ or less may provide its residents with the opportunity to recycle in lieu of achieving the goal set forth in paragraph (a). For the purposes of this subsection, the “opportunity to recycle” means that the county:

1.a. Provides a system for separating and collecting recyclable materials prior to disposal that is located at a solid waste management facility or solid waste disposal area; or

b. Provides a system of places within the county for collection of source-separated recyclable materials.

2. Provides a public education and promotion program that is conducted to inform its residents of the opportunity to recycle, encourages source separation of recyclable materials, and promotes the benefits of reducing, reusing, recycling, and composting materials.

If a county with a population of 75,000 ~~50,000~~ or less decides to provide the opportunity to recycle in lieu of achieving the goal set forth in paragraph (a), the county shall notify the department by October 1, ~~1993~~, of such decision, and shall provide the department with a description of how the county intends to provide the opportunity to recycle. The department shall take into

consideration the description provided by the county in determining the amount of grant moneys to be provided to the county pursuant to s. 403.7095.

Section 16. Paragraph (c) of subsection (3) of section 403.7061, Florida Statutes, is amended to read:

403.7061 Requirements for review of new waste-to-energy facility capacity by the Department of Environmental Protection.—

(3) An applicant must provide reasonable assurance that the construction of a new waste-to-energy facility or the expansion of an existing waste-to-energy facility will comply with the following subsections:

(c) The county in which the facility is located will achieve the 30-percent waste reduction goal set forth in s. 403.706(4) by the time the facility begins operation. For the purposes of this section, the provisions of s. 403.706(4)(d) for counties with populations of 75,000 ~~50,000~~ or less do not apply.

Section 17. Paragraph (a) of subsection (7) of section 403.7095, Florida Statutes, is amended to read:

403.7095 Solid waste management grant program.—

(7)(a) Annual solid waste and recycling grants shall be available to counties with populations of fewer than 100,000. The sum of \$50,000 shall be available annually to each eligible county from the Solid Waste Management Trust Fund ~~through June 30, 1998~~. These grants shall be made by October 1 of each year to any county applying to the department prior to August 1 of any given year.

Section 18. Subsection (1) of section 403.719, Florida Statutes, is amended to read:

403.719 Waste tire grants.—

(1) The department shall administer a program to make grants to counties that seek, individually or collectively, to:

(a) Construct or operate, or contract for the construction or operation of, a waste tire processing facility and equipment purchases therefor;

(b) Contract for a waste tire processing facility service within or outside the county or state;

(c) Collect and remove, or contract for the collection and removal of, waste tires from waste tire piles or other areas within the county. Removal of waste tires may include transportation outside the county, region, or state;

(d) Perform, or contract for the performance of, research designed to facilitate waste tire recycling and to operate recycling and education programs;

- (e) Establish waste tire collection centers at solid waste disposal facilities or waste tire processing facilities;
- (f) Provide incentives for establishing privately operated waste tire collection centers for the public;
- (g) Perform, or contract for the performance of, enforcement and prevention activities to prevent the illegal transportation and disposal of waste tires and other solid waste materials;
- (h) Purchase materials and products made from waste tires that are collected and recycled within this state;
- (i) Counties with populations less than 75,000 ~~50,000~~ may use waste tire grants for any solid waste related purpose; or
- (j) In addition to the use specified in paragraph (c), abate mosquitoes and provide mosquito control at waste tire sites, other tire piles, and other sites in the county identified by local mosquito control agencies as mosquito breeding areas.

Section 19. This act shall take effect July 1 of the year in which enacted.

Became a law without the Governor's approval May 28, 1998.

Filed in Office Secretary of State May 27, 1998.