

Council Substitute for House Bill No. 851

An act relating to solid waste management; amending s. 212.20, F.S.; providing for transfer of certain sales tax proceeds to the Ecosystem Management and Restoration Trust Fund, rather than to the Solid Waste Management Trust Fund; providing uses of such funds; amending s. 403.703, F.S.; correcting cross references; amending s. 403.705, F.S.; deleting the requirement that the state solid waste management program be updated every 3 years; requiring the Department of Environmental Protection to obtain certain information from the counties and to prepare periodic reports; deleting an annual reporting requirement; amending s. 403.706, F.S.; requiring counties to implement a recyclable materials recycling program; revising the requirements for the counties' recycling program; deleting certain notice requirements relating to counties providing the opportunity to recycle; modifying provisions relating to the information counties must provide to the department regarding their solid waste management program and recycling activities; amending s. 403.7061, F.S.; correcting a cross reference; amending s. 403.707, F.S.; providing requirements for disposal of construction and demolition debris at a solid waste disposal facility; clarifying what is not a solid waste facility; amending s. 403.709, F.S.; revising uses of moneys in the Solid Waste Management Trust Fund; providing funding for research and training programs; providing funding to the Department of Agriculture and Consumer Services for mosquito control; providing funding to the Department of Transportation for litter prevention; providing funding for a solid waste grant program, including recycling and waste tire reduction; authorizing the department to recover funds under certain circumstances; authorizing the department to impose liens under certain circumstances; amending s. 403.7095, F.S.; revising requirements and procedures relating to the solid waste management grant program; requiring the department to evaluate and prioritize grant proposals and submit a prioritized list to the Governor and Legislature as part of its annual budget request; providing funding for small county grants; providing funding for waste tire grants; providing funding for competitive and innovative grants; authorizing the department to adopt rules to administer the grant program; amending s. 403.717, F.S.; deleting references and cross references relating to the waste tire grants program; amending s. 403.718, F.S.; eliminating the waste tire account within the Solid Waste Management Trust Fund; creating the Water Quality Improvement and Water Restoration Grant Program, to be administered by the department; specifying eligible grant recipients and criteria for evaluation of grant proposals; requiring the department to evaluate grant proposals and submit a list to the Governor and Legislature as part of its annual budget request; providing for funding of projects to assist financially disadvantaged small local governments; creating a process for department review of projects submitted for funding through the legislative process; authorizing the department to adopt rules to administer the grant

program; repealing s. 403.7085, F.S., relating to the disposal of animal parts and fats and certain other waste products; repealing s. 403.7165, F.S., relating to the Applications Demonstration Center for Resource Recovery from Solid Organic Materials; repealing s. 403.7175, F.S., relating to an annual transfer from the General Revenue Fund; repealing s. 403.719, F.S., relating to the grant program for the collection, removal, processing, and recycling of waste tires; providing effective dates.

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

Section 1. Effective July 1, 2003, subsection (6) of section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter and s. 202.18(1)(b) and (2)(b) shall be as follows:

(a) Proceeds from the convention development taxes authorized under s. 212.0305 shall be reallocated to the Convention Development Tax Clearing Trust Fund.

(b) Proceeds from discretionary sales surtaxes imposed pursuant to ss. 212.054 and 212.055 shall be reallocated to the Discretionary Sales Surtax Clearing Trust Fund.

(c) Proceeds from the fees imposed under ss. 212.05(1)(i)3. and 212.18(3) shall remain with the General Revenue Fund.

(d) The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of \$500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. Two-tenths of one percent shall be transferred to the Ecosystem Management and Restoration Trust Fund to be used for water quality improvement and water restoration projects ~~Solid Waste Management Trust Fund~~.

3. After the distribution under subparagraphs 1. and 2., 9.653 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund.

4. After the distribution under subparagraphs 1., 2., and 3., 0.065 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

5. For proceeds received after July 1, 2000, and after the distributions under subparagraphs 1., 2., 3., and 4., 2.25 percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

6. For proceeds received after July 1, 2000, and after the distributions under subparagraphs 1., 2., 3., and 4., 1.0715 percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

7. Of the remaining proceeds:

a. Beginning July 1, 2000, and in each fiscal year thereafter, the sum of \$29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties shall begin each fiscal year on or before January 5th and shall continue monthly for a total of 4 months. If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment shall continue until such time that the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by local governments, special districts, or district school boards prior to July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 prior to July 1, 2000.

b. The department shall distribute \$166,667 monthly pursuant to s. 288.1162 to each applicant that has been certified as a "facility for a new professional sports franchise" or a "facility for a retained professional sports franchise" pursuant to s. 288.1162. Up to \$41,667 shall be distributed monthly by the department to each applicant that has been certified as a "facility for a retained spring training franchise" pursuant to s. 288.1162; however, not more than \$208,335 may be distributed monthly in the aggregate to all certified facilities for a retained spring training franchise. Distributions shall begin 60 days following such certification and shall continue for not more than 30 years. Nothing contained in this paragraph shall be

construed to allow an applicant certified pursuant to s. 288.1162 to receive more in distributions than actually expended by the applicant for the public purposes provided for in s. 288.1162(6). However, a certified applicant is entitled to receive distributions up to the maximum amount allowable and undistributed under this section for additional renovations and improvements to the facility for the franchise without additional certification.

c. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, \$166,667 shall be distributed monthly, for up to 300 months, to the applicant.

d. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, \$83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s. 288.1169. A lump sum payment of \$999,996 shall be made, after certification and before July 1, 2000.

8. All other proceeds shall remain with the General Revenue Fund.

Section 2. Subsections (2) and (3) of section 403.703, Florida Statutes, are amended to read:

403.703 Definitions.—As used in this act, unless the context clearly indicates otherwise, the term:

(2) “County,” or any like term, means a political subdivision of the state established pursuant to s. 1, Art. VIII of the State Constitution and when s. 403.706(19)(20) applies, means a special district or other entity.

(3) “Municipality,” or any like term, means a municipality created pursuant to general or special law authorized or recognized pursuant to s. 2 or s. 6, Art. VIII of the State Constitution and when s. 403.706(19)(20) applies, means a special district or other entity.

Section 3. Section 403.705, Florida Statutes, is amended to read:

403.705 State solid waste management program.—

(1) The state solid waste management program shall:

(a) Provide guidelines for the orderly collection, ~~transportation~~, storage, separation, processing, recovery, recycling, and disposal of solid waste throughout the state;

(b) Encourage coordinated local activity for solid waste management within a common geographical area;

(c) Investigate the present status of solid waste management in the state with positive proposals for local action to correct deficiencies in present solid waste management processes;

(d) Provide planning, technical, and financial assistance to local governments and state agencies for reduction, recycling, reuse, and processing of solid waste and for safe and environmentally sound solid waste management and disposal;

(e) Assist in the development of solid waste reduction and recycling programs to properly manage solid waste and conserve resources; and

(f) Provide for the education of the general public and the training of solid waste management professionals to reduce the production of solid waste, to ensure proper processing and disposal of solid waste, and to encourage recycling and solid waste reduction.

~~(2) The state solid waste management program shall be updated at least once every 3 years.~~

~~(2)(3)~~ The state solid waste management program shall include, at a minimum:

(a) Procedures and requirements to ensure cooperative efforts in solid waste management by counties and municipalities and groups of counties and municipalities where appropriate.

(b) Provisions for the continuation of existing effective regional resource recovery, recycling, and solid waste management facilities and programs.

(c) Planning guidelines and technical assistance to counties and municipalities to aid in meeting the municipal solid waste reduction goals established in s. 403.706(4).

(d) Planning guidelines and technical assistance to counties and municipalities to develop and implement recycling programs.

(e) Technical assistance to counties and municipalities in determining the full cost for solid waste management pursuant to as required in s. 403.7049(1).

(f) Planning guidelines and technical assistance to counties and municipalities to develop and implement programs for alternative disposal or processing or recycling of the solid wastes prohibited from disposal in landfills under s. 403.708(13) and for special wastes.

(g) A public education program, to be developed in cooperation with the Department of Education, local governments, other state agencies, and business and industry organizations, to inform the public of the need for and the benefits of recycling of solid waste and reducing the amounts of solid and hazardous waste generated and disposed of in the state. The public education program shall be implemented through public workshops and through the use of brochures, reports, public service announcements, and other materials.

(3) The department shall periodically seek information from counties to evaluate and report on the success in meeting the solid waste reduction goal.

~~(4) The department shall prepare by December 1 each year a report on the status of solid waste management efforts in the state. The report shall include, at a minimum:~~

~~(a) A comprehensive analysis, to be updated in each report, of solid waste generation and disposal in the state projected for the 20-year period beginning on October 1, 1988.~~

~~(b) The total amounts of solid waste generated, materials recycled, and disposed of, and the methods of solid waste recycling and disposal used during the calendar year prior to the year in which the report is published.~~

~~(c) An evaluation of the development and implementation of local solid waste management programs and county and municipal recycling programs.~~

~~(d) An evaluation of the success of each county or group of counties in meeting the municipal solid waste reduction goal established in s. 403.706(4).~~

~~(e) Recommendations concerning existing and potential programs for solid waste reduction and recycling that would be appropriate for local governments and state agencies to implement to meet the requirements of this act.~~

~~(f) An evaluation of the markets for recycled materials and the success of state, local, and private industry efforts to enhance the markets for such materials.~~

~~(g) Recommendations to the Governor and the Legislature to improve the management and recycling of solid waste in this state.~~

~~(5) The department shall develop descriptive literature to inform local governments of the solid waste management responsibilities and opportunities described in this act.~~

Section 4. Section 403.706, Florida Statutes, is amended to read:

403.706 Local government solid waste responsibilities.—

(1) The governing body of a county has the responsibility and power to provide for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the county. Unless otherwise approved by an interlocal agreement or special act, municipalities may not operate solid waste disposal facilities unless a municipality demonstrates by a preponderance of the evidence that the use of a county designated facility, when compared to alternatives proposed by the municipality, places a significantly higher and disproportionate financial burden on the citizens of the municipality when compared to the financial burden placed on persons residing within the county but outside of the municipality. However, a municipality may construct and operate a resource recovery facility and related onsite solid waste disposal facilities without an interlocal agreement with the county if the municipality can demonstrate by a preponderance of the

evidence that the operation of such facility will not significantly impair financial commitments made by the county with respect to solid waste management services and facilities or result in significantly increased solid waste management costs to the remaining persons residing within the county but not served by the municipality's facility. This section shall not prevent a municipality from continuing to operate or use an existing disposal facility permitted on or prior to October 1, 1988. Any municipality which establishes a solid waste disposal facility under this subsection and subsequently abandons such facility shall be responsible for the payment of any capital expansion necessary to accommodate the municipality's solid waste for the remaining projected useful life of the county disposal facility. Pursuant to this section and notwithstanding any other provision of this chapter, counties shall have the power and authority to adopt ordinances governing the disposal of solid waste generated outside of the county at the county's solid waste disposal facility. In accordance with this section, municipalities are responsible for collecting and transporting solid waste from their jurisdictions to a solid waste disposal facility operated by a county or operated under a contract with a county. Counties may charge reasonable fees for the handling and disposal of solid waste at their facilities. The fees charged to municipalities at a solid waste management facility specified by the county shall not be greater than the fees charged to other users of the facility except as provided in s. 403.7049(5). Solid waste management fees collected on a countywide basis shall be used to fund solid waste management services provided countywide.

(2)(a) Each county shall implement ~~initiate~~ a recyclable materials recycling program. Counties and municipalities are encouraged to form cooperative arrangements for implementing recycling programs. ~~The following requirements shall apply:~~

~~(a) Construction and demolition debris must be separated from the solid waste stream and segregated in separate locations at a solid waste disposal facility or other permitted site.~~

~~(b) At a minimum,~~ Such programs shall be designed to recover a significant portion of at least four of the following materials ~~majority of the newspaper, aluminum cans, steel cans, glass, and plastic bottles~~ from the solid waste stream prior to final disposal at a solid waste disposal facility and to offer these materials for recycling: newspaper, aluminum cans, steel cans, glass, plastic bottles, cardboard, office paper, and yard trash. Local governments which operate permitted waste-to-energy facilities may retrieve ferrous and nonferrous metal ~~steel cans~~ as a byproduct of combustion.

(c) Local governments are encouraged to separate all plastics, metal, and all grades of paper for recycling prior to final disposal and are further encouraged to recycle yard trash and other mechanically treated solid waste into compost available for agricultural and other acceptable uses.

(d) Each county is encouraged to ~~shall~~ consider plans for composting or mulching of organic materials that would otherwise be disposed of in a landfill. The composting or mulching plans are encouraged to ~~must~~ address partnership with the private sector.

(3) Each county shall 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 pursuant to s. 163.01 or other means provided by law. Nothing in a county's solid waste management or recycling program shall affect the authority of a municipality to franchise or otherwise provide for the collection of solid waste generated within the boundaries of the municipality.

(4)(a) A county's solid waste management and recycling programs shall be designed to provide for sufficient reduction of the amount of solid waste generated within the county and the municipalities within its boundaries in order to meet goals for the reduction of municipal solid waste prior to the final disposal or the incineration of such waste at a solid waste disposal facility. The goals shall provide, at a minimum, that the amount of municipal solid waste that would be disposed of within the county and the municipalities within its boundaries is reduced by at least 30 percent. ~~In determining whether the municipal solid waste reduction goal established by this subsection has been achieved, no more than one-half of the goal may be met with yard trash, white goods, construction and demolition debris, and tires that are removed from the total amount of municipal solid waste. However, if a county that is a special district created by chapter 67-764, Laws of Florida, demonstrates that yard trash, construction and demolition debris, white goods, and waste tires comprise more than 50 percent of the municipal solid waste generated in the county and municipalities within its boundaries, the county may meet the reduction goal established by this subsection by reducing the Class I municipal solid waste generated in the county and municipalities within its boundaries at a rate equal to the average rate Class I municipal solid waste is reduced in the 20 most populous counties, as determined by the department for the previous reporting period. As used in this subsection, "Class I municipal solid waste" means municipal solid waste other than yard trash, construction and demolition debris, white goods, and waste tires.~~

(b) ~~Notwithstanding the limitation on the waste reduction goal in paragraph (a),~~ A county may receive credit for one-half of the goal for waste reduction from ~~one or a combination of the following:~~

~~1. The use of pelletized paper waste as a supplemental fuel in permitted boilers other than waste-to-energy facilities.~~

~~2. the use of yard trash, or other clean wood waste or paper waste, in innovative programs including, but not limited to, programs that produce alternative clean-burning fuels such as ethanol or that provide for the conversion of yard trash or other clean wood waste or paper waste to clean-burning fuel for the production of energy for use at facilities other than a waste-to-energy facility as defined in s. 403.7061. The provisions of this paragraph~~ subparagraph only apply only if a county can demonstrate that:

1.a. The county has implemented a yard trash mulching or composting program, and

2.b. As part of the program, compost and mulch made from yard trash is available to the general public and in use at county-owned or maintained and municipally owned or maintained facilities in the county and state agencies operating in the county as required by this section.

~~(c) No facility, solely by virtue of the fact that it uses processed yard trash or clean wood or paper waste as a fuel source, shall be deemed to be a solid waste disposal facility.~~

~~(c)~~(d) A county with a population of 100,000 ~~75,000~~ 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 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 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.~~

(5) As used in this section, “municipal solid waste” includes 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. The term includes yard trash but does not include solid waste from industrial, mining, or agricultural operations.

(6) The department may reduce or modify the municipal solid waste reduction goal that a county is required to achieve pursuant to subsection (4) if the county demonstrates to the department that:

(a) The achievement of the goal set forth in subsection (4) would have an adverse effect on the financial obligations of a county that are directly related to a waste-to-energy facility owned or operated by or on behalf of the county; and

(b) 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.

The goal shall not be waived entirely and may only be reduced or modified to the extent necessary to alleviate the adverse effects of achieving the goal on the financial viability of a county's waste-to-energy facility. Nothing in this subsection shall exempt a county from developing and implementing a recycling program pursuant to this act.

(7) In order to assess the progress in meeting the goal established in subsection (4), each county shall, by ~~November~~ October each year, provide information ~~report~~ to the department its annual solid waste management program and recycling activities. The information ~~report~~ by the county must include:

~~(a) A description of its public education program on recycling;~~

~~(a)~~(b) The amount of municipal solid waste disposed of at solid waste disposal facilities, by type of waste such as yard trash, white goods, clean debris, tires, and unseparated solid waste;

~~(b)~~(c) The amount and type of materials from the municipal solid waste stream that were recycled; and

~~(c)~~(d) The percentage of the population participating in various types of recycling activities instituted.;

~~(e) The percent reduction each year in municipal solid waste disposed of at solid waste disposal facilities;~~

~~(f) A description of the recycling activities attempted, their success rates, the perceived reasons for failure or success, and the recycling activities which are ongoing and most successful; and~~

~~(g) A description of the progress made toward developing a composting program for organic materials such as yard waste, food waste, and paper waste that would otherwise be disposed of in a landfill.~~

(8) A county or municipality may enter into a written agreement with other persons, including persons transporting solid waste on October 1, 1988, to undertake to fulfill some or all of the county's or municipality's responsibilities under this section.

(9) In the development and implementation of a curbside recyclable materials collection program, a county or municipality shall enter into negotiations with a franchisee who is operating to exclusively collect solid waste within a service area of a county or municipality to undertake curbside recyclable materials collection responsibilities for a county or municipality. If the county or municipality and such franchisee fail to reach an agreement within 60 days from the initiation of such negotiations, the county or municipality may solicit proposals from other persons to undertake curbside recyclable materials collection responsibilities for the county or municipality as it may require. Upon the determination of the lowest responsible proposal,

the county or municipality may undertake, or enter into a written agreement with the person who submitted the lowest responsible proposal to undertake, the curbside recyclable materials collection responsibilities for the county or municipality, notwithstanding the exclusivity of such franchise agreement.

(10) In developing and implementing recycling programs, counties and municipalities shall give consideration to the collection, marketing, and disposition of recyclable materials by persons engaged in the business of recycling ~~on October 1, 1988~~, whether or not the persons are ~~were~~ operating for profit. Counties and municipalities are encouraged to use for-profit and nonprofit organizations in fulfilling their responsibilities under this act.

(11) A county and the municipalities within the county's boundaries may jointly develop a recycling program, provided that the county and each such municipality must enter into a written agreement to jointly develop a recycling program. If a municipality does not participate in jointly developing a recycling program with the county within which it is located, the county may require the municipality to provide information on recycling efforts undertaken within the boundaries of the municipality in order to determine whether the goal for municipal solid waste reduction is being achieved.

(12) It is the policy of the state that a county and its municipalities may jointly determine, through an interlocal agreement pursuant to s. 163.01 or by requesting the passage of special legislation, which local governmental agency shall administer a solid waste management or recycling program.

(13) The county shall provide written notice to all municipalities within the county when recycling program development begins and shall provide periodic written progress reports to the municipalities concerning the preparation of the recycling program.

(14) Nothing in this act shall be construed to prevent the governing body of any county or municipality from providing by ordinance or regulation for solid waste management requirements which are stricter or more extensive than those imposed by the state solid waste management program and rules, regulations, and orders issued thereunder.

(15) Nothing in this act or in any rule adopted by any agency shall be construed to require any county or municipality to participate in any regional solid waste management or regional resource recovery program until the governing body of such county or municipality has determined that participation in such a program is economically feasible for that county or municipality. Nothing in this act or in any special or local act or in any rule adopted by any agency shall be construed to limit the authority of a municipality to regulate the disposal of solid waste within its boundaries or generated within its boundaries so long as a facility for any such disposal has been approved by the department, unless the municipality is included within a solid waste management program created by interlocal agreement or special or local act. If bonds had been issued to finance a resource recovery or management program or a solid waste management program in reliance on state law granting to a county the responsibility for the resource recovery or management program or a solid waste management program, nothing

herein shall permit any governmental agency to withdraw from said program if said agency's participation is necessary for the financial feasibility of the project, so long as said bonds are outstanding.

(16) Nothing in this chapter or in any rule adopted by any state agency hereunder shall require any person to subscribe to any private solid waste collection service.

(17) To effect the purposes of this part, counties and municipalities are authorized, in addition to other powers granted pursuant to this part:

(a) To contract with persons to provide resource recovery services or operate resource recovery facilities on behalf of the county or municipality.

(b) To indemnify persons providing resource recovery services or operating resource recovery facilities for liabilities or claims arising out of the provision or operation of such services or facilities that are not the result of the sole negligence of the persons providing such services or operating such facilities.

(c) To waive sovereign immunity and immunity from suit in federal court by vote of the governing body of the county or municipality to the extent necessary to carry out the authority granted in paragraphs (a) and (b), notwithstanding the limitations prescribed in s. 768.28.

(d) To grant a solid waste fee waiver to nonprofit organizations that are engaged in the collection of donated goods for charitable purposes and that have a recycling or reuse rate of 50 percent or better.

(18) Each operator of a solid waste management facility owned or operated by or on behalf of a county or municipality shall weigh all solid waste when it is received. The scale used to measure the solid waste shall conform to the requirements of chapter 531 and any rules promulgated thereunder.

~~(19) A county listed in chapter 17-7, Florida Administrative Code, which was required to submit to the department a local resource recovery and management program shall revise its existing local resource recovery and management program if necessary to meet the requirements of this act.~~

(19)(20) In the event the power to manage solid waste has been granted to a special district or other entity by special act or interlocal agreement, any duty or responsibility or penalty imposed under this part on a county or municipality shall apply to such special district or other entity to the extent of the grant of such duty or responsibility or imposition of such penalty. To the same extent, such special district or other entity shall be eligible for grants or other benefits provided pursuant to this part.

(20)(24) In addition to any other penalties provided by law, a local government that does not comply with the requirements of subsections (2) and (4) shall not be eligible for grants from the Solid Waste Management Trust Fund, and the department may notify the State Treasurer to withhold payment of all or a portion of funds payable to the local government by the department from the General Revenue Fund or by the department from any

other state fund, to the extent not pledged to retire bonded indebtedness, unless the local government demonstrates that good faith efforts to meet the requirements of subsections (2) and (4) have been made or that the funds are being or will be used to finance the correction of a pollution control problem that spans jurisdictional boundaries.

~~(21)~~(22) Local governments are authorized to enact ordinances that require and direct all residential properties and industrial, commercial, and institutional establishments as defined by the local government to establish programs for the separation of recyclable materials designated by the local government, which recyclable materials are specifically intended for purposes of recycling and for which a market exists, and to provide for their collection. Such ordinances may include, but are not limited to, provisions that prohibit any person from knowingly disposing of recyclable materials designated by the local government and that ensure the collection of recovered materials as necessary to protect public health and safety.

~~(22)~~(23) Nothing in this act shall limit the authority of the state or any local government to regulate the collection, transportation, processing, or handling of recovered materials or solid waste in order to protect the public health, safety, and welfare.

Section 5. 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)~~(c)~~(d) for counties with populations of 75,000 or less do not apply.

Section 6. Subsections (15) and (16) are added to section 403.707, Florida Statutes, to read:

403.707 Permits.—

(15) Construction and demolition debris must be separated from the solid waste stream and segregated in separate locations at a solid waste disposal facility or other permitted site.

(16) No facility, solely by virtue of the fact that it uses processed yard trash or clean wood or paper waste as a fuel source, shall be considered to be a solid waste disposal facility.

Section 7. Section 403.709, Florida Statutes, is amended to read:

(Substantial rewording of section. See

s. 403.709, F.S., for present text.)

403.709 Solid Waste Management Trust Fund; use of waste tire fees.—
There is created the Solid Waste Management Trust Fund, to be administered by the department. From the annual revenues deposited in the trust fund, unless otherwise specified in the General Appropriations Act:

(1) Up to 40 percent shall be used for funding solid waste activities of the department and other state agencies, such as providing technical assistance to local governments and the private sector, performing solid waste regulatory and enforcement functions, preparing solid waste documents, and implementing solid waste education programs.

(2) Up to 4.5 percent shall be used for funding research and training programs relating to solid waste management through the Center for Solid and Hazardous Waste Management and other organizations which can reasonably demonstrate the capability to carry out such projects.

(3) Up to 11 percent shall be used for funding to supplement any other funds provided to the Department of Agriculture and Consumer Services for mosquito control. This distribution shall be annually transferred to the General Inspection Trust Fund in the Department of Agriculture and Consumer Services to be used for mosquito control, especially control of West Nile Virus.

(4) Up to 4.5 percent shall be used for funding to the Department of Transportation for litter prevention and control programs coordinated by Keep Florida Beautiful, Inc.

(5) A minimum of 40 percent shall be used for funding a competitive and innovative grant program pursuant to s. 403.7095 for activities relating to recycling and reducing the volume of municipal solid waste, including waste tires requiring final disposal.

(6) The department shall recover to the use of the fund from the site owner or the person responsible for the accumulation of tires at the site, jointly and severally, all sums expended from the fund pursuant to this section to manage tires at an illegal waste tire site, except that the department may decline to pursue such recovery if it finds the amount involved too small or the likelihood of recovery too uncertain. If a court determines that the owner is unable or unwilling to comply with the rules adopted pursuant to this section or s. 403.717, the court may authorize the department to take possession and control of the waste tire site in order to protect the health, safety, and welfare of the community and the environment.

(7) The department may impose a lien on the real property on which the waste tire site is located and the waste tires equal to the estimated cost to bring the tire site into compliance, including attorney's fees and court costs. Any owner whose property has such a lien imposed may release her or his property from any lien claimed under this subsection by filing with the clerk of the circuit court a cash or surety bond, payable to the department in the amount of the estimated cost of bringing the tire site into compliance with

department rules, including attorney's fees and court costs, or the value of the property after the abatement action is complete, whichever is less.

(8) This section does not limit the use of other remedies available to the department.

Section 8. Section 403.7095, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 403.7095, F.S., for present text.)

403.7095 Solid waste management grant program.—

(1) The department shall develop a competitive and innovative grant program for counties, municipalities, special districts, and nonprofit organizations that have legal responsibility for the provision of solid waste management services that:

(a) Demonstrate technologies or processes that are not in common use in Florida, that represent a novel application of an existing technology or process, or that overcome obstacles to recycling and waste reduction in new or innovative ways;

(b) Demonstrate innovative processes to collect and recycle or reduce materials targeted by the department and the recycling industry; or

(c) Demonstrate effective solutions to solving solid waste problems resulting from waste tires, particularly in the areas of enforcement and abatement of illegal tire dumping and activities to promote market development of waste tire products.

Because the Legislature recognizes that input from the recycling industry is essential to the success of this grant program, the department shall cooperate with private-sector entities to develop a process and define specific criteria for allowing their participation with grant recipients.

(2) The department shall evaluate and prioritize the annual grant proposals and present the annual prioritized list of projects to be funded to the Governor and the Legislature as part of its annual budget request submitted pursuant to chapter 216, beginning with fiscal year 2003-2004. Potential grant recipients are encouraged to demonstrate local support for grant proposals by the commitment of cash or in-kind matching funds.

(3) The department shall develop a consolidated grant program for small counties having populations fewer than 100,000, with grants to be distributed equally among eligible counties. Programs to be supported with the small-county consolidated grants include general solid waste management, litter prevention and control, and recycling and education programs.

(4) The department shall develop a waste tire grant program making grants available to all counties. The department shall ensure that at least 25 percent of the funding available for waste tire grants is distributed equally to each county having a population fewer than 100,000. Of the

remaining funds distributed to counties having a population of 100,000 or greater, the department shall distribute those funds on the basis of population.

(5) From the funds made available pursuant to s. 403.709(5) for the grant program created by this section, the following distributions shall be made:

(a) Up to 15 percent for the program described in subsection (1);

(b) Up to 35 percent for the program described in subsection (3); and

(c) Up to 50 percent for the program described in subsection (4).

(6) The department may adopt rules necessary to administer this section, including, but not limited to, rules governing timeframes for submitting grant applications, criteria for prioritizing, matching criteria, maximum grant amounts, and allocation of appropriated funds based upon project and applicant size.

Section 9. Subsections (1) and (4) of section 403.717, Florida Statutes, are amended to read:

403.717 Waste tire and lead-acid battery requirements.—

(1) For purposes of this section and ss. 403.718 and, 403.7185, ~~and 403.719~~:

(a) “Department” means the Department of Environmental Protection.

(b) “Motor vehicle” means an automobile, motorcycle, truck, trailer, semi-trailer, truck tractor and semitrailer combination, or any other vehicle operated in this state, used to transport persons or property and propelled by power other than muscular power, but the term does not include traction engines, road rollers, such vehicles as run only upon a track, bicycles, mopeds, or farm tractors and trailers.

(c) “Tire” means a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle.

(d) “Waste tire” means a tire that has been removed from a motor vehicle and has not been retreaded or regrooved. “Waste tire” includes, but is not limited to, used tires and processed tires.

(e) “Waste tire collection center” means a site where waste tires are collected from the public prior to being offered for recycling and where fewer than 1,500 tires are kept on the site on any given day.

(f) “Waste tire processing facility” means a site where equipment is used to recapture reusable byproducts from waste tires or to cut, burn, or otherwise alter waste tires so that they are no longer whole. The term includes mobile waste tire processing equipment.

(g) “Waste tire site” means a site at which 1,500 or more waste tires are accumulated.

(h) “Lead-acid battery” means those lead-acid batteries designed for use in motor vehicles, vessels, and aircraft, and includes such batteries when sold new as a component part of a motor vehicle, vessel, or aircraft, but not when sold to recycle components.

(i) “Indoor” means within a structure which excludes rain and public access and would control air flows in the event of a fire.

(j) “Processed tire” means a tire that has been treated mechanically, chemically, or thermally so that the resulting material is a marketable product or is suitable for proper disposal.

(k) “Used tire” means a waste tire which has a minimum tread depth of $\frac{3}{32}$ inch or greater and is suitable for use on a motor vehicle.

(4) The department shall adopt rules to carry out the provisions of this section and s. ss. 403.718 and ~~403.719~~. Such rules shall:

(a) Provide for the administration or revocation of waste tire processing facility permits, including mobile processor permits;

(b) Provide for the administration or revocation of waste tire collector registrations, the fees for which may not exceed \$50 per vehicle registered annually;

(c) Provide for the administration or revocation of waste tire collection center permits, the fee for which may not exceed \$250 annually;

(d) Set standards, including financial assurance standards, for waste tire processing facilities and associated waste tire sites, waste tire collection centers, waste tire collectors, and for the storage of waste tires and processed tires, including storage indoors;

(e) The department may by rule exempt not-for-hire waste tire collectors and processing facilities from financial assurance requirements;

~~(f) Establish procedures for administering the waste tire grants program and issuing grants;~~

(f)(g) Authorize the final disposal of waste tires at a permitted solid waste disposal facility provided the tires have been cut into sufficiently small parts to assure their proper disposal; and

(g)(h) Allow waste tire material which has been cut into sufficiently small parts to be used as daily cover material for a landfill.

Section 10. Section 403.718, Florida Statutes, is amended to read:

403.718 Waste tire fees.—

(1) For the privilege of engaging in business, a fee for each new motor vehicle tire sold at retail is imposed on any person engaging in the business of making retail sales of new motor vehicle tires within this state. The fee imposed under this section shall be stated separately on the invoice to the

purchaser. Such fee shall be imposed at the rate of \$1 for each new tire sold. The fee imposed shall be paid to the Department of Revenue on or before the 20th day of the month following the month in which the sale occurs. For purposes of this section, a motor vehicle tire sold at retail includes such tires when sold as a component part of a motor vehicle. The terms “sold at retail” and “retail sales” do not include the sale of new motor vehicle tires to a person solely for the purpose of resale provided the subsequent retail sale in this state is subject to the fee. This fee does not apply to recapped tires. Such fee shall be subject to all applicable taxes imposed in chapter 212.

(2) The fee imposed by this section shall be reported to the Department of Revenue. The payment shall be accompanied by such form as the Department of Revenue may prescribe. The proceeds of the waste tire fee, less administrative costs, shall be transferred by the Department of Revenue into ~~the waste tire account within~~ the Solid Waste Management Trust Fund. For the purposes of this section, “proceeds” of the fee ~~means~~ shall mean all funds collected and received by the department hereunder, including interest and penalties on delinquent fees. The amount deducted for the costs of administration ~~must~~ shall not exceed 3 percent of the total revenues collected hereunder and ~~may include~~ shall be only those costs reasonably attributable to the fee.

(3)(a) The Department of Revenue shall administer, collect, and enforce the fee authorized under this section pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212, except as provided in this section. The provisions of this section regarding the authority to audit and make assessments, keeping of books and records, and interest and penalties on delinquent fees ~~shall~~ apply. The fee shall not be included in the computation of estimated taxes pursuant to s. 212.11 nor shall the dealer’s credit for collecting taxes or fees in s. 212.12 apply to this fee.

(b) The Department of Revenue is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The department is empowered to adopt such rules and shall prescribe and publish such forms as are ~~may be~~ necessary to effectuate the purposes of this section. The department is authorized to establish audit procedures and to assess delinquent fees.

Section 11. Water Quality Improvement and Water Restoration Grant Program.—

(1) The Department of Environmental Protection shall develop and administer a competitive grant program to use funds transferred pursuant to s. 212.20, Florida Statutes, to the Ecosystem Management and Restoration Trust Fund for water quality improvement and water restoration project grants. Eligible recipients of such grants include counties, municipalities, water management districts, and special districts that have legal responsibilities for water quality improvement, water management, storm water management, sewer system operations, and lake and river restoration projects.

(2) The competitive grant program shall provide for the evaluation of annual grant proposals. The department shall evaluate such proposals to determine if they:

(a) Protect public health and the environment.

(b) Implement plans developed pursuant to the Surface Water Improvement and Management Act created in part IV of chapter 373, Florida Statutes, other water restoration plans required by law, management plans prepared pursuant to s. 403.067, Florida Statutes, or other plans adopted by local government for water quality improvement and water restoration.

(3) The department shall evaluate the annual grant proposals and present the annual list of projects recommended to be funded to the Governor and the Legislature as part of its annual budget request submitted pursuant to chapter 216, Florida Statutes, beginning with fiscal year 2003-2004.

(4) Each fiscal year, at least 20 percent of the funds available pursuant to subsection (1) shall be used for projects to assist financially disadvantaged small local governments. For purposes of this section, the term "financially disadvantaged small local government" means a municipality having a population of 7,500 or less, a county having a population of 35,000 or less, according to the latest decennial census and a per capita annual income less than the state per capita annual income as determined by the United States Department of Commerce, or a county in an area designated by the Governor as a rural area of critical economic concern pursuant to s. 288.0656, Florida Statutes. Grants made to these eligible local governments shall not require matching local funds.

(5) No later than February 1 of each year, water quality improvement projects and water restoration projects submitted for funding through the legislative process shall be submitted to the department by the appropriate fiscal committees of the House of Representatives and the Senate. The department shall review the projects for funding eligibility and must, no later than March 1 of each year, provide each fiscal committee with a list of projects that meet the eligibility requirements under this grant program.

(6) The department may adopt rules necessary to administer this section, including, but not limited to, rules governing timeframes for submitting grant applications, evaluation criteria, forms, matching criteria, maximum grant amounts, and allocation of appropriated funds based upon project and applicant size.

Section 12. Sections 403.7085, 403.7165, 403.7175, and 403.719, Florida Statutes, are repealed.

Section 13. Except as otherwise provided herein, this act shall take effect July 1, 2002.

Approved by the Governor May 30, 2002.

Filed in Office Secretary of State May 30, 2002.