

By the Committee on Communication and Public Utilities

319-2099-04

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

A bill to be entitled  
An act relating to renewable energy; creating  
s. 366.91, F.S.; providing legislative  
findings; requiring public utilities, municipal  
utilities, and rural electric cooperatives to  
offer a purchase contract to producers of  
renewable energy; providing requirements for  
such contracts; providing for cost recovery;  
creating s. 366.95, F.S.; creating a surcharge  
on retail electric sales; amending s. 403.7061,  
F.S.; deleting a permit requirement for a  
waste-to-energy facility; encouraging specified  
applicants for a landfill permit to consider  
construction of a waste-to-energy facility;  
providing an effective date.

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

Section 1. Section 366.91, Florida Statutes, is  
created to read:

366.91 Renewable electricity.--

(1) The Legislature finds that it is in the public  
interest to promote the development of renewable electric  
resources in this state. Renewable electric resources have the  
potential to help diversify fuel types to meet Florida's  
growing dependency on natural gas for electric production,  
minimize the volatility of fuel costs, encourage investment  
within this state, improve environmental conditions, and make  
Florida a leader in new and innovative technologies.

(2) As used in this section, the term:

1           (a) "Biomass" means a power source that is comprised  
2 of, but not limited to, combustible residues or gases from  
3 forest-products manufacturing, agricultural and orchard crops,  
4 waste products from livestock and poultry operations and food  
5 processing, urban wood waste, municipal solid waste, municipal  
6 liquid waste treatment operations, and landfill gas.

7           (b) "Renewable energy" means electrical energy  
8 produced from any method or process that uses one or more of  
9 the following fuels or energy sources: hydrogen produced from  
10 sources other than fossil fuels, biomass, solar energy,  
11 geothermal energy, wind energy, ocean energy, hydroelectric  
12 power, municipal solid waste, municipal liquid waste treatment  
13 operations, or landfill gas.

14           (3) On or before January 1, 2005, each public utility  
15 must continuously offer a purchase contract to producers of  
16 renewable energy containing payment provisions for energy and  
17 capacity, if capacity payments are appropriate, which are  
18 based upon the utility's full avoided cost, as defined in s.  
19 366.051. Each contract must provide a contract term of at  
20 least 10 years. Prudent and reasonable costs associated with a  
21 renewable energy contract shall be recovered from the  
22 ratepayers of the contracting utility, without differentiation  
23 among customer classes, through the appropriate cost-recovery  
24 clause mechanism administered by the commission.

25           (4) On or before January 1, 2005, each municipal  
26 electric utility and rural electric cooperative whose annual  
27 sales as of July 1, 1993, to retail customers were greater  
28 than 2,000 gigawatt hours must continuously offer a purchase  
29 contract to producers of renewable energy containing payment  
30 provisions for energy and capacity, if capacity payments are  
31 appropriate, which are based upon the utility's or

1 cooperative's full avoided cost, as determined by the  
2 governing body of the municipal utility or cooperative. Each  
3 contract must provide a contract term of at least 10 years.

4 (5) A contracting producer of renewable energy must  
5 pay the actual costs of its interconnection with the  
6 transmission grid or distribution system.

7 Section 2. Section 366.95, Florida Statutes, is  
8 created to read:

9 366.95 Alternative electric energy  
10 surcharge.--Beginning January 1, 2005, each electric utility  
11 shall assess or cause to be assessed a charge of one quarter  
12 mill (\$0.00025) per kilowatt hour charged to each retail  
13 electric customer in this state. The funds so collected shall  
14 be deposited into the Florida Alternative Electric Energy  
15 Trust Fund for use as provided in the statute creating that  
16 fund.

17 Section 3. Section 403.7061, Florida Statutes, is  
18 amended to read:

19 403.7061 Requirements for review of new  
20 waste-to-energy facility capacity by the Department of  
21 Environmental Protection.--

22 (1) The Legislature recognizes the need to use an  
23 integrated approach to municipal solid waste management.  
24 Accordingly, the solid waste management legislation adopted in  
25 1988 was guided by policies intended to foster integrated  
26 solid waste management by using waste reduction, recycling,  
27 waste-to-energy facilities, and landfills. Progress is being  
28 made in the state using this integrated approach to municipal  
29 solid waste management, and this approach should be continued.  
30 Waste-to-energy facilities will continue to be an integral  
31 part of the state's solid waste management practices. However,

1 the state is committed to achieving its recycling and waste  
2 reduction goals and must ensure that waste-to-energy  
3 facilities are fully integrated with the state's waste  
4 management goals. Therefore, the Legislature finds that the  
5 department should evaluate applications for waste-to-energy  
6 facilities in accordance with the new criteria in subsection  
7 (3) to confirm that the facilities are part of an integrated  
8 waste management plan.

9 (2) Notwithstanding any other provisions of state law,  
10 the department shall not issue a construction permit or  
11 certification to build a waste-to-energy facility or expand an  
12 existing waste-to-energy facility unless the facility meets  
13 the requirements set forth in subsection (3). Any construction  
14 permit issued by the department between January 1, 1993, and  
15 May 12, 1993, which does not address these new requirements  
16 shall be invalid. These new requirements do not apply to the  
17 issuance of permits or permit modifications to retrofit  
18 existing facilities with new or improved pollution control  
19 equipment to comply with state or federal law. The department  
20 shall initiate rulemaking to incorporate the criteria in  
21 subsection (3) into its permit review process.

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

26 (a) The facility is a necessary part of the local  
27 government's integrated solid waste management program in the  
28 jurisdiction where the facility is located and cannot be  
29 avoided through feasible and practical efforts to use  
30 recycling or waste reduction.

31

1           (b) The use of capacity at existing waste-to-energy  
2 facilities within reasonable transportation distance of the  
3 proposed facility must have been evaluated and found not to be  
4 economically feasible when compared to the use of the proposed  
5 facility for the expected life of the proposed facility. This  
6 paragraph does not apply to:

7           1. Applications to build or expand waste-to-energy  
8 facilities received by the department before March 1, 1993, or  
9 amendments to such applications that do not increase  
10 combustion capacity beyond that requested as of March 1, 1993;  
11 or

12           2. Any modification to waste-to-energy facility  
13 construction or operating permits or certifications or  
14 conditions thereto, including certifications under ss.  
15 403.501-403.518, that do not increase combustion capacity  
16 above that amount applied for before March 1, 1993.

17           (c) The applicant must demonstrate that the county in  
18 which the facility is located has implemented a solid waste  
19 management and recycling program that is designed to achieve  
20 the waste reduction goal set forth in s. 403.706(4). ~~The~~  
21 ~~county in which the facility is located will achieve the~~  
22 ~~30-percent waste reduction goal set forth in s. 403.706(4) by~~  
23 ~~the time the facility begins operation. For the purposes of~~  
24 ~~this section, the provisions of s. 403.706(4)(c) for counties~~  
25 ~~with populations of 75,000 or less do not apply.~~

26           (d) The local government in which the facility is  
27 located has implemented a mulching, composting, or other waste  
28 reduction program for yard trash.

29           (e) The local governments served by the facility will  
30 have implemented or participated in a separation program  
31 designed to remove small-quantity generator and household

1 hazardous waste, mercury containing devices, and  
2 mercuric-oxide batteries from the waste stream prior to  
3 incineration, by the time the facility begins operation.

4 (f) The local government in which the facility is  
5 located has implemented a program to procure products or  
6 materials with recycled content, pursuant to s. 403.7065.

7 (g) A program will exist in the local government in  
8 which the facility is located for collecting and recycling  
9 recovered material from the institutional, commercial, and  
10 industrial sectors by the time the facility begins operation.

11 (h) The facility will be in compliance with applicable  
12 local ordinances and with the approved state and local  
13 comprehensive plans required by chapter 163.

14 (i) The facility is in substantial compliance with its  
15 permit, conditions of certification, and any agreements or  
16 orders resulting from environmental enforcement actions by  
17 state agencies.

18 (4) For the purposes of this section, the term  
19 "waste-to-energy facility" means a facility that uses an  
20 enclosed device using controlled combustion to thermally break  
21 down solid, liquid, or gaseous combustible solid waste to an  
22 ash residue that contains little or no combustible material  
23 and that produces electricity, steam, or other energy as a  
24 result. The term does not include facilities that primarily  
25 burn fuels other than solid waste even if such facilities also  
26 burn some solid waste as a fuel supplement. The term also does  
27 not include facilities that burn vegetative, agricultural, or  
28 silvicultural wastes, bagasse, clean dry wood, methane or  
29 other landfill gas, wood fuel derived from construction or  
30 demolition debris, or waste tires, alone or in combination  
31 with fossil fuels.

1           Section 4. Requirements relating to solid waste  
2 disposal facility permitting.--Local government applicants for  
3 a permit to construct or expand a Class I landfill are  
4 encouraged to consider construction of a waste-to-energy  
5 facility as an alternative to additional landfill space.

6           Section 5. This act shall take effect October 1, 2004.

7  
8                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
9                           COMMITTEE SUBSTITUTE FOR  
10                           SB 1492

11 The CS for SB 1492:

12 Requires public utilities and specified municipal electric  
13 utilities and rural electric cooperatives to continuously  
14 offer a purchase contract to producers of renewable energy  
15 basing payment on the utility's avoided cost and having a  
16 minimum 10 year term.

17 Requires all electric utilities to charge retail customers a  
18 charge of one quarter mill (\$.00025) per kilowatt hour, with  
19 the funds collected to be deposited into the Florida  
20 Alternative Electric Energy Trust Fund.

21 Requires that an applicant for a permit to construct or expand  
22 a waste-to-energy facility demonstrate that the county in  
23 which the facility is located has implemented a solid waste  
24 management and recycling program that is designed to achieve  
25 the 30 percent waste reduction goal set forth in s.  
26 403.706(4), F.S., instead of the current requirement of  
27 providing reasonable assurance that the county will achieve  
28 that goal by the time the facility begins operation.

29 Provides that local government applicants for a permit to  
30 construct or expand a Class I landfill are encouraged to  
31 consider construction of a waste-to-energy facility as an  
alternative to additional landfill space.