

By the Committees on Natural Resources; and Communication and Public Utilities

312-2184-04

1 A bill to be entitled
2 An act relating to renewable energy; creating
3 s. 366.91, F.S.; providing legislative
4 findings; requiring public utilities, municipal
5 utilities, and rural electric cooperatives to
6 offer a purchase contract to producers of
7 renewable energy; providing requirements for
8 such contracts; providing for cost recovery;
9 amending s. 403.7061, F.S.; deleting a permit
10 requirement for a waste-to-energy facility;
11 encouraging specified applicants for a landfill
12 permit to consider construction of a
13 waste-to-energy facility; providing an
14 effective date.

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

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

20 366.91 Renewable electricity.--

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

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

30 (a) "Biomass" means a power source that is comprised
31 of, but not limited to, combustible residues or gases from

1 forest-products manufacturing, agricultural and orchard crops,
2 waste products from livestock and poultry operations and food
3 processing, urban wood waste, municipal solid waste, municipal
4 liquid waste treatment operations, and landfill gas.

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

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

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

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1 governing body of the municipal utility or cooperative. Each
2 contract must provide a contract term of at least 10 years.

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

6 Section 2. Section 403.7061, Florida Statutes, is
7 amended to read:

8 403.7061 Requirements for review of new
9 waste-to-energy facility capacity by the Department of
10 Environmental Protection.--

11 (1) The Legislature recognizes the need to use an
12 integrated approach to municipal solid waste management.
13 Accordingly, the solid waste management legislation adopted in
14 1988 was guided by policies intended to foster integrated
15 solid waste management by using waste reduction, recycling,
16 waste-to-energy facilities, and landfills. Progress is being
17 made in the state using this integrated approach to municipal
18 solid waste management, and this approach should be continued.
19 Waste-to-energy facilities will continue to be an integral
20 part of the state's solid waste management practices. However,
21 the state is committed to achieving its recycling and waste
22 reduction goals and must ensure that waste-to-energy
23 facilities are fully integrated with the state's waste
24 management goals. Therefore, the Legislature finds that the
25 department should evaluate applications for waste-to-energy
26 facilities in accordance with the new criteria in subsection
27 (3) to confirm that the facilities are part of an integrated
28 waste management plan.

29 (2) Notwithstanding any other provisions of state law,
30 the department shall not issue a construction permit or
31 certification to build a waste-to-energy facility or expand an

1 existing waste-to-energy facility unless the facility meets
2 the requirements set forth in subsection (3). Any construction
3 permit issued by the department between January 1, 1993, and
4 May 12, 1993, which does not address these new requirements
5 shall be invalid. These new requirements do not apply to the
6 issuance of permits or permit modifications to retrofit
7 existing facilities with new or improved pollution control
8 equipment to comply with state or federal law. The department
9 shall initiate rulemaking to incorporate the criteria in
10 subsection (3) into its permit review process.

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

15 (a) The facility is a necessary part of the local
16 government's integrated solid waste management program in the
17 jurisdiction where the facility is located and cannot be
18 avoided through feasible and practical efforts to use
19 recycling or waste reduction.

20 (b) The use of capacity at existing waste-to-energy
21 facilities within reasonable transportation distance of the
22 proposed facility must have been evaluated and found not to be
23 economically feasible when compared to the use of the proposed
24 facility for the expected life of the proposed facility. This
25 paragraph does not apply to:

26 1. Applications to build or expand waste-to-energy
27 facilities received by the department before March 1, 1993, or
28 amendments to such applications that do not increase
29 combustion capacity beyond that requested as of March 1, 1993;
30 or

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1 2. Any modification to waste-to-energy facility
2 construction or operating permits or certifications or
3 conditions thereto, including certifications under ss.
4 403.501-403.518, that do not increase combustion capacity
5 above that amount applied for before March 1, 1993.

6 (c) The applicant must demonstrate that the county in
7 which the facility is located has implemented a solid waste
8 management and recycling program that is designed to achieve
9 the waste reduction goal set forth in s. 403.706(4). ~~The~~
10 ~~county in which the facility is located will achieve the~~
11 ~~30-percent waste reduction goal set forth in s. 403.706(4) by~~
12 ~~the time the facility begins operation. For the purposes of~~
13 ~~this section, the provisions of s. 403.706(4)(c) for counties~~
14 ~~with populations of 75,000 or less do not apply.~~

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

18 (e) The local governments served by the facility will
19 have implemented or participated in a separation program
20 designed to remove small-quantity generator and household
21 hazardous waste, mercury containing devices, and
22 mercuric-oxide batteries from the waste stream prior to
23 incineration, by the time the facility begins operation.

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

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

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

4 (i) The facility is in substantial compliance with its
5 permit, conditions of certification, and any agreements or
6 orders resulting from environmental enforcement actions by
7 state agencies.

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

22 Section 3. Requirements relating to solid waste
23 disposal facility permitting.--Local government applicants for
24 a permit to construct or expand a Class I landfill are
25 encouraged to consider construction of a waste-to-energy
26 facility as an alternative to additional landfill space.

27 Section 4. This act shall take effect October 1, 2004.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS for Senate Bill 1492

This committee substitute deletes the provision that created
an alternative electric energy surcharge.