

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, provided however, that capacity payments shall not be
18 required if, due to the operational characteristics of the
19 renewable energy generator or the anticipated peak and
20 off-peak availability and capacity factor of the utility's
21 avoided unit, it is unlikely to provide any capacity value to
22 the utility or the electric grid during the contract term.
23 Each contract must provide a contract term of at least 10
24 years. Prudent and reasonable costs associated with a
25 renewable energy contract shall be recovered from the
26 ratepayers of the contracting utility, without differentiation
27 among customer classes, through the appropriate cost-recovery
28 clause mechanism administered by the commission.

29 (4) On or before January 1, 2005, each municipal
30 electric utility and rural electric cooperative whose annual
31 sales as of July 1, 1993, to retail customers were greater

1 than 2,000 gigawatt hours must continuously offer a purchase
2 contract to producers of renewable energy containing payment
3 provisions for energy and capacity, if capacity payments are
4 appropriate, which are based upon the utility's or
5 cooperative's full avoided cost, as determined by the
6 governing body of the municipal utility or cooperative,
7 provided however that capacity payments shall not be required
8 if, due to the operational characteristics of the renewable
9 energy generator or the anticipated peak and off-peak
10 availability and capacity factor of the utility's avoided
11 unit, it is unlikely to provide any capacity value to the
12 utility or the electric grid during the contract term. Each
13 contract must provide a contract term of at least 10 years.

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

17 Section 2. 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.

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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 3. 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 4. This act shall take effect October 1, 2004.
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