

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 which are based upon the utility's full avoided cost,  
16 as defined in s. 366.051, provided however, that capacity  
17 payments shall not be required if, due to the operational  
18 characteristics of the renewable energy generator or the  
19 anticipated peak and off-peak availability and capacity factor  
20 of the utility's avoided unit, it is unlikely to provide any  
21 capacity value to the utility or the electric grid during the  
22 contract term. Each contract must provide a contract term of  
23 at least 10 years. Prudent and reasonable costs associated  
24 with a renewable energy contract shall be recovered from the  
25 ratepayers of the contracting utility, without differentiation  
26 among customer classes, through the appropriate cost-recovery  
27 clause mechanism administered by the commission.

28 (4) On or before January 1, 2005, each municipal  
29 electric utility and rural electric cooperative whose annual  
30 sales as of July 1, 1993, to retail customers were greater  
31 than 2,000 gigawatt hours must continuously offer a purchase

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

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

15 Section 2. Section 403.7061, Florida Statutes, is  
16 amended to read:

17 403.7061 Requirements for review of new  
18 waste-to-energy facility capacity by the Department of  
19 Environmental Protection.--

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

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

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

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

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

29 (b) The use of capacity at existing waste-to-energy  
30 facilities within reasonable transportation distance of the  
31 proposed facility must have been evaluated and found not to be

1 economically feasible when compared to the use of the proposed  
2 facility for the expected life of the proposed facility. This  
3 paragraph does not apply to:

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

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

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

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

26 (e) The local governments served by the facility will  
27 have implemented or participated in a separation program  
28 designed to remove small-quantity generator and household  
29 hazardous waste, mercury containing devices, and  
30 mercuric-oxide batteries from the waste stream prior to  
31 incineration, by the time the facility begins operation.

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

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

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

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

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

29 Section 3. Requirements relating to solid waste  
30 disposal facility permitting.--Local government applicants for  
31 a permit to construct or expand a Class I landfill are

1 encouraged to consider construction of a waste-to-energy  
2 facility as an alternative to additional landfill space.

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