

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1551                      Relating to Renewable Energy  
**SPONSOR(S):** Reagan  
**TIED BILLS:**                              **IDEN./SIM. BILLS:** CS/CS/SB 1495

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Business Regulation</u>	_____	<u>Holt</u>	<u>Liepshutz</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

HB 1551 creates section 366.91 and 366.95, creates unnumbered sections, and amends section 403.7061, F.S. The bill requires that the Florida Public Service Commission (PSC) adopt rules that require public utilities to enter renewable generation contracts with facilities that produce qualified renewable resources. The PSC is to also establish and approve standards relating to the terms, conditions, and payment schedules of such contracts. These contracts have a minimum five year term. Additional rule-making authority is given to the PSC relating to governing the creation, valuation, and trading of renewable energy credits. A definition of renewable energy credit is given in the bill.

The bill provides transmission provisions for the electric output from facilities that produce qualified renewable resources for sale to a public utility.

Beginning in 2006, each public utility must ensure that it produces or purchases from new sources of renewable energy in Florida an amount of renewable energy that is equivalent to at least 0.5 percent of its amount of annual net energy for load. Each year thereafter, this required percentage is increased by 0.5 percent until a total of 4 percent of annual net energy for load is reached. Alternative provisions to meet the renewable energy purchase requirement are included in the bill.

A report is required from the PSC by the bill. Summarily, the report is to describe the 1) the total amount of new renewable energy that has been developed in Florida; 2) the amount and price of new renewable energy that is under contract pursuant to s. 366.91; 3) the amount of new renewable energy, other than that provided in subsection (2), made available and the average price 4) the amount of public utility contributions to the Florida Alternative Energy Technology Center for which credits were obtained; 5) the estimated economic effect on the state.

Further, the bill directs the Department of Environmental Protection (DEP) to adopt rules determining whether applicants for permits to construct or expand a solid waste disposal facility should be required to perform a feasibility study.

There does not appear to be a fiscal impact on state or local government.

The act takes effect October 1, 2004.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1551.br  
**DATE:** March 28, 2004

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

##### BACKGROUND

The PSC, in consultation with the DEP, were directed by the 2002 Florida Legislature to do an assessment of renewable energy in Florida and its potential for electric generation. The assessment report is entitled An Assessment of Renewable Electric Generating Technologies for Florida and was prepared by the PSC in January 2003. In the report, based on statutory language, renewable energy is defined as electricity generated from any method or process that uses one or more of the following sources of energy, but not limited to: biomass; municipal solid waste; geothermal energy; solar energy; wind energy; wood waste; ocean thermal gradient power; hydroelectric power; landfill gas; and agricultural products and by-products.

There is no generally accepted definition for "renewable energy." However, the report goes on to indicate that using only the specific enumerated categories of renewables identified above, Florida has approximately 680 megawatts of renewable capacity. Moreover, under the "not limited to" rubric, Florida has an additional 340 megawatts of generation capacity from phosphate manufacturers who use waste heat to produce electricity. This results in a total net summer generating capacity of 1028 MWs.

The report further noted that most renewable technologies are not yet cost-competitive with traditional forms of electric generation.

##### PROPOSED CHANGES

The bill creates section 366.91, F.S. – relating to renewable energy standard offer contracts. This section is short titled "Renewable Electric Energy Production Act." Legislative findings, among other things, authorize the PSC to require public utilities to make available a renewable generation contract for purposes of encouraging greater deployment of renewable electric resources. The following definitions are provided in the section:

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

(b) "Qualified renewable energy" means energy produced from any method or process that uses one or more of the following fuels or processes: fuel cells,

biomass, solar photovoltaic energy, municipal solid waste, geothermal energy, wind energy, hydroelectric or thermal ocean energy, hydroelectric energy, landfill gas, agricultural products and byproducts, and waste heat from nonfossil-fueled exothermic reactions.

## Renewable Generation Contracts

The PSC is authorized in the bill to promulgate rules that require public utilities to offer a renewable generation contract to facilities that produce qualified renewable resources that allows the facilities to sell output to any public utility in Florida. Contracts may contain payment provisions that offer financial incentives for qualified renewable resources based on the construction and operation of utility-owned generating facilities that provide for fuel diversity and fuel cost stabilization for that public utility. Determination of payment incentives rests with the PSC. The contract terms, conditions, and payments schedule standards are also determined by the PSC. Contracts are to have a minimum five year term. Any prudent and reasonable costs associated with a renewable generation contract are recoverable from the ratepayers of the contracting utility.

Facilities that produce qualified renewable resources for sale to a public utility must pay the interconnection to the transmission grid costs. Upon election, a facility may sell its electric output to a utility outside the service territory of the host utility in which the facility is geographically located. Such transmission costs are borne by the utility requesting the transmission service.

The bill also creates section 366.95, F.S. – relating to minimum renewable energy requirements. Definitions are also provided for implementation of this section as follows:

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

(b) "New sources of renewable energy" means sources of renewable energy constructed or put into production after the effective date of this act or new contracts entered into after that date for a source of generation in production prior to that date.

(c) "Renewable energy" means energy produced from any method or process that uses one or more of the following sources of energy: fuel cells, biomass, solar thermal or solar photovoltaic energy, municipal solid waste, geothermal energy, wind energy, hydroelectric or thermal ocean energy, hydroelectric energy, landfill gas, agricultural products and byproducts, and waste heat from nonfossil-fueled exothermic reactions.

(d) "Renewable energy credit" means a tradable unity that represents the commodity formed by unbundling the environmental attributes of a unit of renewable energy from the underlying electricity.

## Minimum Renewable Energy Purchase Requirement

The bill establishes how much new sources of renewable energy is to be produced or purchased by each public utility. Beginning in 2006, an amount equivalent to at least 0.5 percent of its amount of annual net energy for load is required. Each year thereafter, the required percentage amount is to increase by 0.5 percent until a total of 4 percent of annual net energy for load is reached. The bill, however, provides alternative methods for a public utility to reach the purchase requirements.

## Cost Recovery

Any increased costs incurred by a public utility by the provisions of this act are recoverable, without differentiation between customer classes, through the appropriate cost recovery clause mechanism. Failure to fully meet the minimum renewable energy purchase requirement is remedied by contribution to the Florida Alternative Energy Technology Center. The PSC shall determine the amount of shortfall and the associated payment by April 1, of the following year.

## Commission Rules

Rules are to be adopted by the PSC for governing the creation, valuation, and trading of renewable energy credits available to a public utility. Value of a credit for a contribution to the Florida Alternative Energy Technology Center must be the amount of the financial incentives determined under s. 366.91 or determined by an alternative averaging method.

## Penalties

Authority is given in the bill to the PSC to impose penalties for violation of s 366.95, F.S, as provided in s. 366.095, F.S., penalties.

In section 3 of the bill, directory language and guidelines are given to the PSC for submission of a report to the President of the Senate and the Speaker of the House of Representatives by October 1, 2009, on renewable energy.

Section 403.7061, F.S., relates to requirements for review of new waste-to-energy facility capacity by the DEP. Specifically, s. 405.7061(3)(c) provides that :

(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) for counties with populations of 75,000 or less do not apply.

The bill deletes this paragraph, and alphabetizes accordingly.

Section 5 of the bill is created relating to the requirements relating to solid waste disposal facility permitting; feasibility study for waste-to-energy facilities. Concisely, the Legislature finds that building or expanding solid waste disposal facilities is in the public interest. As a result, based on a threshold of tons of solid waste produced, the bill directs the DEP to adopt rules determining which applicants for a permit to construct or expand a solid waste disposal facility should be required to perform a feasibility study. The outcome of the study dictates whether it is economically feasible for an applicant to construct and operate a waste-to-energy facility as opposed to additional land fill space.

This act takes effect October 1, 2004.

## C. SECTION DIRECTORY:

None.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires all public utilities to offer renewable energy standard offer contracts to facilities that produce qualified renewable resources and the impact on these utilities and ratepayers is indeterminate.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Rule-making authority is granted to the PSC to implement the provisions of the act.  
Rule-making authority is granted to the DEP for determining waste-to-energy applicants and the appropriateness of them submitting feasibility studies related to constructing and operating a waste-to-energy facility.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES