A bill to be entitled

An act relating to renewable energy; creating s. 366.91, F.S.; providing a popular name; providing legislative findings; providing definitions; requiring the Public Service Commission to require public utilities to offer a purchase contract to facilities that produce qualified renewable resources; providing requirements for such contracts; providing for cost recovery; providing for sales of renewable energy to a utility other than the host utility; authorizing the commission to adopt rules; creating s. 366.95, F.S.; providing definitions; establishing and providing for a minimum renewable energy purchase requirement; providing for cost recovery; providing for rules; providing penalties; requiring a report to the Legislature; amending s. 403.7061, F.S.; deleting a permit requirement for a waste-to-energy facility; establishing new requirements for solid waste management; 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 energy standard offer contract.--

(1) POPULAR NAME.--This section may be known by the popular name the "Renewable Electric Energy Production Act."

(2) LEGISLATIVE FINDINGS.--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 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. However, the Legislature acknowledges that, at this time, renewable electric resources cost more than traditional generating technologies and fuels. Therefore, a greater deployment of renewable electric resources must be balanced against any adverse impacts on electric rates. To balance these objectives, the Legislature authorizes the Public Service Commission to require public utilities to make available a renewable generation contract for purposes of encouraging greater deployment of renewable electric resources.

(3) DEFINITIONS.--As used in this section, the term:

(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 resource" 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.

(4) RENEWABLE GENERATION CONTRACTS.--The commission shall require public utilities to offer to facilities that produce qualified renewable resources a renewable generation contract that allows such facilities to sell any electric output to any public utility in this state. To achieve the purposes of this chapter, such a contract 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. The commission may use a statewide generating facility in determining the financial incentives to be contained in the contract. The commission shall establish standards relating to the terms, conditions, and payment schedules of such contracts to reflect the actual operational performance and capacity factors associated with a utility-owned generating facility that provides for fuel diversity and fuel cost stabilization. The commission may adjust capacity payment schedules according to the extent that operational performance, reliability, risks, and capacity factors of a facility producing qualified renewable resources differ from the performance and capacity factors of a utility generating unit. Each contract must provide a minimum contract term of 5 years and be approved by the commission. Prudent and reasonable costs associated with a renewable generation contract shall be recovered from the ratepayers of the contracting utility. The commission may periodically review and establish new payment schedules, identify the most current selected utility-owned generating or statewide generating unit that provides for fuel diversity and fuel cost stabilization, and

review the terms and conditions for prospective renewable generation contracts to minimize the cost impacts of such contracts on ratepayers.

(5) TRANSMISSION.--A facility that produces qualified renewable resources for sale to a public utility must pay the actual construction costs of its interconnection with the transmission grid. A facility that produces qualified renewable resources may elect to sell its electric output to a utility outside the service territory of the host utility in which the facility is geographically located. Any costs for transmitting the output to another utility are to be borne by the facility requesting the transmission service.

(6) RULEMAKING.--The commission may adopt rules to administer this section.

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

366.95 Minimum renewable energy requirements.--

(1) DEFINITIONS.--As used in this section, the term:

(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 unit that represents the commodity formed by unbundling the environmental attributes of a unit of renewable energy from the underlying electricity.

(2) MINIMUM RENEWABLE ENERGY PURCHASE REQUIREMENT.--

(a) 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 amount is to increase by 0.5 percent until a total of 4 percent of annual net energy for load is reached.

(b) A public utility may meet this requirement by:

1. Purchasing energy under a renewable generation contract pursuant to s. 366.91;

2. Purchasing energy from qualified renewable resources in a transaction other than a renewable generation contract;

3. Purchasing renewable energy credits from utilities that have qualified renewable resources in excess of the requirements of paragraph (a);

4. Using renewable energy through a program approved by

the commission to produce verifiable or estimated reductions in a customer's energy consumption, including net metering programs; or

5. Contributing to the Florida Alternative Energy Technology Center.

(c) Each public utility must produce or purchase the renewable energy credits through the least cost alternative available, with costs being prudent and reasonably incurred.

(3) COST RECOVERY.--Any increased costs to a public utility are to be recovered, without differentiation between customer classes, through the appropriate cost recovery clause mechanism administered by the commission. If at the end of a year a utility fails to meet the minimum renewable energy requirement, the utility may remedy this shortfall by making a contribution to the Florida Alternative Energy Technology Center in the amount of the shortfall. The commission shall determine the amount of the shortfall and the associated payment by April 1 of the following year.

(4) COMMISSION RULES.--The commission must adopt rules governing the creation, valuation, and trading of renewable energy credits. These rules must address all means by which a public utility may obtain credit. Credits are to be based on one-megawatt-hour units. The 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. If the amount of the financial incentives differs among the contracts offered by public utilities, the value of a credit must be the average amount of these financial incentives. The commission may adopt rules to ensure that the purchase of

renewable energy credits or certificates by utilities is conducted in a fair and impartial manner, consistent with the goals set forth in this section.

(5) PENALTIES.--Upon a finding by the commission that a utility has violated this section, the commission may impose the penalties provided in s. 366.095.

Section 3. The Public Service Commission must submit a report to the President of the Senate and the Speaker of the House of Representatives by October 1, 2009, describing:

(1) The total amount of new renewable energy that has been developed in Florida.

(2) The amount of this new renewable energy that is under a renewable generation contract pursuant to s. 366.91, Florida Statutes, and the average price for this new renewable energy.

(3) The amount of new renewable energy, other than new renewable energy provided for 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) An estimate of the economic effect on the state.

Section 4. Subsection (3) of section 403.7061, Florida Statutes, is amended to read:

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

(3) An applicant must provide reasonable assurance that the construction of a new waste-to-energy facility or the expansion of an existing waste-to-energy facility will comply

with the following paragraphs ~~subsections~~:

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

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

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

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

~~(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.~~

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

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

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

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

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

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

Section 5. Requirements relating to solid waste disposal facility permitting; feasibility study for waste-to-energy facilities.--

(1) The Legislature finds that it is in the public interest to conduct feasibility studies for construction of waste-to-energy facilities as an option to building or expanding solid waste disposal facilities. Florida currently collects about 28 million tons of solid waste per year. By 2018, Florida's growing population will produce an estimated 38

million tons of solid waste per year. Florida's growing population also requires increased electric generation capacity. Florida's utilities currently add approximately 1,500 megawatts of new capacity each year. These capacity expansions are primarily fueled by natural gas, which has shown greater price volatility in recent years.

(2) The Department of Environmental Protection is directed to adopt rules determining, based on a threshold of tons of solid waste produced, which applicants for a permit to construct or expand a solid waste disposal facility should be required to perform a feasibility study for construction of a waste-to-energy facility instead of or in conjunction with the construction or expansion of the solid waste disposal facility. When a feasibility study indicates that it is economically feasible to construct a waste-to-energy facility as an alternative to additional landfill space, the applicant must construct and operate such a waste-to-energy facility.

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