

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Environmental Preservation Committee

BILL: SB 494

SPONSOR: Senator Bennett

SUBJECT: Renewable Energy

DATE: March 17, 2005      REVISED: 03/21/05 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Caldwell</u>	<u>CU</u>	<b>Fav/2 amendments</b>
2.	<u>Branning</u>	<u>Kiger</u>	<u>EP</u>	<b>Fav/1 amendment</b>
3.	_____	_____	<u>CA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see last section for Summary of Amendments**

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

**I. Summary:**

The bill requires that, on or before January 1, 2006, each public utility and each municipal electric utility and rural electric cooperative that meet specified criteria must continuously offer a purchase contract to producers of renewable energy. The contract must base payment on the utility's avoided cost and have a minimum 10-year term.

The bill reduces the requirement that an applicant for a permit to construct or expand a waste-to-energy facility must meet relating to a solid waste management and recycling program and encourages local government applicants for a permit to construct or expand a Class I landfill to consider construction of a waste-to-energy facility as an alternative to additional landfill space.

The bill creates section 366.91 of the Florida Statutes. It also amends sections 366.11 and 403.7061 of the Florida Statutes.

**II. Present Situation:**

There is no generally-accepted definition for "renewable energy." Using a broad definition, Florida has some renewable energy generation, including municipal solid waste (landfill power plants), biomass materials (wood and bagasse, or sugar cane residue), waste heat from manufacturing (primarily phosphate processing), and a very small amount of hydroelectric capacity.

Florida does not have a requirement that utilities generate or purchase renewable energy.

A waste-to-energy (WTE) facility is defined in s. 403.7061(4), F.S., as a facility that uses an enclosed device using controlled combustion to thermally break down solid, liquid, or gaseous combustible solid waste to an ash residue that contains little or no combustible material and that produces electricity, steam, or other energy as a result. The term does not include facilities that burn vegetative, agricultural, or silvicultural wastes, bagasse, clean dry wood, methane or other landfill gas, wood fuel derived from construction or demolition debris, or waste tires, alone or in combination with fossil fuels.

Section 403.706, F.S., requires each county to implement a recyclable materials recycling program. Counties and municipalities are encouraged to form cooperative arrangements for implementing recycling programs. The county's solid waste management and recycling programs shall be designed to provide for sufficient reduction of the amount of solid waste generated within the county in order to meet goals for the reduction of municipal solid waste prior to the final disposal or the incineration of such waste at a solid waste disposal facility. The goals shall provide, at a minimum, that the amount of municipal solid waste that would be disposed of within the county is reduced by at least 30 percent. Counties with a population of 100,000 or less may provide its residents with the opportunity to recycle in lieu of achieving the goal.

Section 403.7061, F.S., provides the requirements for review of new WTE facility capacity by the Department of Environmental Protection. One of the criteria for a new or expanded WTE facility is that the county in which the facility is located will achieve the 30 percent waste reduction goal by the time the facility begins operation. This requirement does not apply to counties with populations of 75,000 or less.

### **III. Effect of Proposed Changes:**

The bill defines the terms "biomass" and "renewable energy." It requires that, on or before January 1, 2006, each public utility must continuously offer a purchase contract to producers of renewable energy basing payment on the utility's avoided cost. The contract must have a minimum 10-year term. Each municipal electric utility and rural electric cooperative whose annual sales as of July 1, 1993, to retail customers were greater than 2,000 gigawatt hours is also required to continuously offer a purchase contract to producers of renewable energy basing payment on the utility's avoided cost and having a minimum 10-year term.

The bill amends s. 366.11, F.S., to provide that the exemption from regulation for municipal and cooperative electric utilities does not apply to the new contract requirements set forth above.

This bill amends s. 403.7061, F.S., to modify the requirements for counties that want to expand existing or construct new WTE facilities. The requirement that counties must achieve the 30 percent waste reduction goal before the WTE facility begins operation is deleted and instead counties must implement a solid waste management and recycling program designed to achieve the waste reduction goal as provided in s. 403.706(4), F.S.

Further, s. 403.706, F.S., provides that small counties do not have to implement a recycling program; they only have to provide an opportunity to recycle. Currently, if an applicant proposes a WTE in a small county, s. 403.7061(3)(c), F.S., provides that the requirement for small counties to provide an opportunity to recycle does not apply. This bill deletes that provision and appears to provide that whenever a new or expanded WTE facility is proposed, the county must meet the recycling goal, regardless of the size of the county.

The bill takes effect October 1, 2005.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill requires all public utilities to offer to purchase renewable energy at the utilities' avoided cost. The amount of new renewable energy that will be purchased under these contracts, and therefore the impact on the utilities, cannot be projected.

C. Government Sector Impact:

According to a representative of municipal utilities and rural electric cooperatives, the only municipal utilities that meet the criteria for application of the contract requirements of the bill are Orlando and Jacksonville, and no cooperative meets these criteria. The amount of new renewable energy that will be purchased by these two municipal utilities under the contracts, and therefore the impact on the utilities, cannot be projected.

This bill would make it easier to expand existing or construct new WTE facilities in counties that have implemented a solid waste management and recycling program that is designed to meet the waste reduction goal. Currently, those counties must achieve the 30 percent reduction goal before the DEP can approve the construction or expansion of such facilities.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Small counties still appear to have the option of providing an opportunity to recycle in lieu of implementing a recycling program; however, unless that county has implemented a solid waste management or recycling program designed to meet the reduction goal, a WTE cannot be sited in that county.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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## VIII. Summary of Amendments:

**Barcode #720740 by Communications & Public Utilities:**

This amendment clarifies when capacity payments are to be paid.

**Barcode #324226 by Communications & Public Utilities:**

This amendment clarifies when capacity payments are to be paid.

**Barcode #621944 by Environmental Preservation:**

This amendment conforms this bill to the provisions of SB 824, relating to waste-to-energy facilities, that was passed favorably by the Environmental Preservation Committee on March 8, 2005. The amendment provides that prior to the construction of a new WTE facility or the expansion of an existing WTE facility, the county must implement and maintain a solid waste management and recycling program designed to meet the 30 percent waste reduction goal. The amendment also provides that if a WTE facility is built in a small county with a population of 100,000 or less, that county must have a program designed to achieve the waste reduction goal, and not just provide the opportunity to recycle.

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