

By the Committee on Community Affairs; and Senator Bennett

578-1935-05

1 A bill to be entitled

2 An act relating to renewable energy; creating

3 s. 366.91, F.S.; providing legislative

4 findings; providing definitions; requiring

5 public utilities, municipal utilities, and

6 rural electric cooperatives to offer a purchase

7 contract to producers of renewable energy;

8 providing requirements for such contracts;

9 requiring that a producer pay the costs for

10 interconnection; amending s. 366.11, F.S.;

11 specifying that requirements for the purchase

12 of renewable energy apply to municipal

13 utilities; amending s. 403.7061, F.S.; revising

14 a permit requirement for a waste-to-energy

15 facility; encouraging specified applicants for

16 a landfill permit to consider construction of a

17 waste-to-energy facility; providing an

18 effective date.

19

20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Section 366.91, Florida Statutes, is

23 created to read:

24 366.91 Renewable energy.--

25 (1) The Legislature finds that it is in the public

26 interest to promote the development of renewable energy

27 resources in this state. Renewable energy resources have the

28 potential to help diversify fuel types to meet Florida's

29 growing dependency on natural gas for electric production,

30 minimize the volatility of fuel costs, encourage investment

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1 within the state, improve environmental conditions, and make
2 Florida a leader in new and innovative technologies.

3 (2) As used in this section, the term:

4 (a) "Biomass" means a power source composed of
5 combustible residues or gases that are derived from organic
6 matter drawn from sources other than fossil fuels, which
7 sources are available on a renewable basis. The term
8 includes, but is not limited to, a power source from
9 forest-products manufacturing; agricultural and orchard crops;
10 waste products from livestock operations, poultry operations,
11 or food processing; urban wood waste; municipal solid waste;
12 municipal liquid waste treatment operations; or landfill gas.

13 (b) "Renewable energy" means electrical energy
14 produced from a method that uses one or more of the following
15 fuels or energy sources: hydrogen produced from sources other
16 than fossil fuels, biomass, solar energy, geothermal energy,
17 wind energy, ocean energy, and hydroelectric power.

18 (3) On or before January 1, 2006, each public utility
19 must continuously offer a purchase contract to producers of
20 renewable energy containing payment provisions for energy and
21 capacity which are based upon the utility's full avoided
22 costs, as defined in s. 366.051; however, capacity payments
23 are not required if, due to the operational characteristics of
24 the renewable energy generator or the anticipated peak and
25 off-peak availability and capacity factor of the utility's
26 avoided unit, the producer is unlikely to provide any capacity
27 value to the utility or the electric grid during the contract
28 term. Each contract must provide a contract term of at least
29 10 years. Prudent and reasonable costs associated with a
30 renewable energy contract shall be recovered from the
31 ratepayers of the contracting utility, without differentiation

1 among customer classes, through the appropriate cost-recovery
2 clause mechanism administered by the commission.

3 (4) On or before January 1, 2006, each municipal
4 electric utility and rural electric cooperative whose annual
5 sales, as of July 1, 1993, to retail customers were greater
6 than 2,000 gigawatt hours must continuously offer a purchase
7 contract to producers of renewable energy containing payment
8 provisions for energy and capacity which are based upon the
9 utility's or cooperative's full avoided costs, as determined
10 by the governing body of the municipal utility or cooperative;
11 however, capacity payments are not required if, due to the
12 operational characteristics of the renewable energy generator
13 or the anticipated peak and off-peak availability and capacity
14 factor of the utility's avoided unit, the producer is unlikely
15 to provide any capacity value to the utility or the electric
16 grid during the contract term. Each contract must provide a
17 contract term of at least 10 years.

18 (5) A contracting producer of renewable energy must
19 pay the actual costs of its interconnection with the
20 transmission grid or distribution system.

21 Section 2. Subsection (1) of section 366.11, Florida
22 Statutes, is amended to read:

23 366.11 Certain exemptions.--

24 (1) No provision of this chapter shall apply in any
25 manner, other than as specified in ss. 366.04, 366.05(7) and
26 (8), 366.051, 366.055, 366.093, 366.095, 366.14, ~~and~~
27 366.80-366.85, and 366.91, to utilities owned and operated by
28 municipalities, whether within or without any municipality, or
29 by cooperatives organized and existing under the Rural
30 Electric Cooperative Law of the state, or to the sale of
31 electricity, manufactured gas, or natural gas at wholesale by

1 any public utility to, and the purchase by, any municipality
2 or cooperative under and pursuant to any contracts now in
3 effect or which may be entered into in the future, when such
4 municipality or cooperative is engaged in the sale and
5 distribution of electricity or manufactured or natural gas, or
6 to the rates provided for in such contracts.

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

9 403.7061 Requirements for review of new
10 waste-to-energy facility capacity by the Department of
11 Environmental Protection.--

12 (3) An applicant must provide reasonable assurance
13 that the construction of a new waste-to-energy facility or the
14 expansion of an existing waste-to-energy facility will comply
15 with the following ~~subsections~~:

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

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

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

1 2. Any modification to waste-to-energy facility
2 construction or operating permits or certifications or
3 conditions thereto, including certifications under ss.
4 403.501-403.518, that do not increase combustion capacity
5 above that amount applied for before March 1, 1993.

6 (c) The county in which the facility is located has
7 implemented and maintains a solid waste management and
8 recycling program that is designed to ~~The county in which the~~
9 ~~facility is located will~~ achieve the ~~30 percent~~ waste
10 reduction goal set forth in s. 403.706(4) ~~by the time the~~
11 ~~facility begins operation~~. For the purposes of this section,
12 the provisions of s. 403.706(4)(c) for counties with
13 populations of 100,000 ~~75,000~~ or less do not apply.

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

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

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

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

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

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

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

22 Section 4. Requirements relating to solid waste
23 disposal facility permitting.--Local government applicants for
24 a permit to construct or expand a Class I landfill are
25 encouraged to consider construction of a waste-to-energy
26 facility as an alternative to additional landfill space.

27 Section 5. This act shall take effect October 1, 2005.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 494

The Committee substitute (CS) revises the definition of "renewable energy" in the CS. It specifies that capacity payments are not required under certain circumstances. Also, the CS requires a county with a population of 100,000 or less to have a program designed to achieve the waste reduction goal in s. 403.706(4), F.S., rather than just providing the opportunity to recycle, if a WTE facility is build within its boundaries.