

Bill No. HB 77, 1st Eng.

Barcode 734522

CHAMBER ACTION

Senate

House

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11 Senator Bennett moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 Delete everything after the enacting clause

15
16 and insert:

17 Section 1. Section 366.91, Florida Statutes, is
18 created to read:

19 366.91 Renewable energy.--

20 (1) The Legislature finds that it is in the public
21 interest to promote the development of renewable energy
22 resources in this state. Renewable energy resources have the
23 potential to help diversify fuel types to meet Florida's
24 growing dependency on natural gas for electric production,
25 minimize the volatility of fuel costs, encourage investment
26 within the state, improve environmental conditions, and make
27 Florida a leader in new and innovative technologies.

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

29 (a) "Biomass" means a power source that is comprised
30 of, but not limited to, combustible residues or gases from
31 forest-products manufacturing, agricultural and orchard crops,

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1 waste products from livestock and poultry operations and food
2 processing, urban wood waste, municipal solid waste, municipal
3 liquid waste treatment operations, and landfill gas.

4 (b) "Renewable energy" means electrical energy
5 produced from a method that uses one or more of the following
6 fuels or energy sources: hydrogen produced from sources other
7 than fossil fuels, biomass, solar energy, geothermal energy,
8 wind energy, ocean energy, and hydroelectric power. The term
9 includes the alternative energy resource, waste heat, from
10 sulfuric acid manufacturing operations.

11 (3) On or before January 1, 2006, each public utility
12 must continuously offer a purchase contract to producers of
13 renewable energy. The commission shall establish requirements
14 relating to the purchase of capacity and energy by public
15 utilities from renewable energy producers and may adopt rules
16 to administer this section. The contract shall contain payment
17 provisions for energy and capacity which are based upon the
18 utility's full avoided costs, as defined in s. 366.051;
19 however, capacity payments are not required if, due to the
20 operational characteristics of the renewable energy generator
21 or the anticipated peak and off-peak availability and capacity
22 factor of the utility's avoided unit, the producer is unlikely
23 to provide any capacity value to the utility or the electric
24 grid during the contract term. Each contract must provide a
25 contract term of at least 10 years. Prudent and reasonable
26 costs associated with a renewable energy contract shall be
27 recovered from the ratepayers of the contracting utility,
28 without differentiation among customer classes, through the
29 appropriate cost-recovery clause mechanism administered by the
30 commission.

31 (4) On or before January 1, 2006, each municipal

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

15 (5) A contracting producer of renewable energy must
16 pay the actual costs of its interconnection with the
17 transmission grid or distribution system.

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

20 366.11 Certain exemptions.--

21 (1) No provision of this chapter shall apply in any
22 manner, other than as specified in ss. 366.04, 366.05(7) and
23 (8), 366.051, 366.055, 366.093, 366.095, 366.14, ~~and~~
24 366.80-366.85, and 366.91, to utilities owned and operated by
25 municipalities, whether within or without any municipality, or
26 by cooperatives organized and existing under the Rural
27 Electric Cooperative Law of the state, or to the sale of
28 electricity, manufactured gas, or natural gas at wholesale by
29 any public utility to, and the purchase by, any municipality
30 or cooperative under and pursuant to any contracts now in
31 effect or which may be entered into in the future, when such

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1 municipality or cooperative is engaged in the sale and
2 distribution of electricity or manufactured or natural gas, or
3 to the rates provided for in such contracts.

4 Section 3. Section 403.7061, Florida Statutes, is
5 amended to read:

6 403.7061 Requirements for review of new
7 waste-to-energy facility capacity by the Department of
8 Environmental Protection.--

9 (1) The Legislature recognizes the need to use an
10 integrated approach to municipal solid waste management.
11 Accordingly, the solid waste management legislation adopted in
12 1988 was guided by policies intended to foster integrated
13 solid waste management by using waste reduction, recycling,
14 waste-to-energy facilities, and landfills. Progress is being
15 made in the state using this integrated approach to municipal
16 solid waste management, and this approach should be continued.
17 Waste-to-energy facilities will continue to be an integral
18 part of the state's solid waste management practices. However,
19 the state is committed to achieving its recycling and waste
20 reduction goals and must ensure that waste-to-energy
21 facilities are fully integrated with the state's waste
22 management goals. Therefore, the Legislature finds that the
23 department should evaluate applications for waste-to-energy
24 facilities in accordance with the new criteria in subsection
25 (3) to confirm that the facilities are part of an integrated
26 waste management plan.

27 (2) Notwithstanding any other provisions of state law,
28 the department shall not issue a construction permit or
29 certification to build a waste-to-energy facility or expand an
30 existing waste-to-energy facility unless the facility meets
31 the requirements set forth in subsection (3). Any construction

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1 permit issued by the department between January 1, 1993, and
 2 May 12, 1993, which does not address these new requirements
 3 shall be invalid. These new requirements do not apply to the
 4 issuance of permits or permit modifications to retrofit
 5 existing facilities with new or improved pollution control
 6 equipment to comply with state or federal law. The department
 7 shall initiate rulemaking to incorporate the criteria in
 8 subsection (3) into its permit review process.

9 (3) An applicant must provide reasonable assurance
 10 that the construction of a new waste-to-energy facility or the
 11 expansion of an existing waste-to-energy facility will comply
 12 with the following criteria subsections:

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

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

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

29 2. Any modification to waste-to-energy facility
 30 construction or operating permits or certifications or
 31 conditions thereto, including certifications under ss.

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1 403.501-403.518, that do not increase combustion capacity
2 above that amount applied for before March 1, 1993.

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

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

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

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

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

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

30 (i) The facility is in substantial compliance with its
31 permit, conditions of certification, and any agreements or

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1 orders resulting from environmental enforcement actions by
2 state agencies.

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

17 Section 4. Requirements relating to solid waste
18 disposal facility permitting.--Local government applicants for
19 a permit to construct or expand a Class I landfill are
20 encouraged to consider construction of a waste-to-energy
21 facility as an alternative to additional landfill space.

22 Section 5. This act shall take effect October 1, 2005.

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25 ===== T I T L E A M E N D M E N T =====

26 And the title is amended as follows:

27 Delete everything before the enacting clause

28
29 and insert:

30 A bill to be entitled

31 An act relating to renewable energy; creating

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1 s. 366.91, F.S.; providing legislative
2 findings; providing definitions; requiring
3 public utilities, municipal utilities, and
4 rural electric cooperatives to offer a purchase
5 contract to producers of renewable energy;
6 requiring the Florida Public Service Commission
7 to establish requirements relating to the
8 purchase of capacity and energy by public
9 utilities from renewable energy producers;
10 authorizing the commission to adopt rules;
11 providing requirements for contracts; requiring
12 that a producer pay the costs for
13 interconnection; amending s. 366.11, F.S.;
14 specifying that requirements for the purchase
15 of renewable energy apply to municipal
16 utilities; amending s. 403.7061, F.S.; revising
17 a permit requirement for a waste-to-energy
18 facility; encouraging specified applicants for
19 a landfill permit to consider construction of a
20 waste-to-energy facility; providing an
21 effective date.

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