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1                   A bill to be entitled  
2           An act relating to waste-to-energy facilities; amending s.  
3           403.7061, F.S.; requiring counties with waste-to-energy  
4           facilities to implement a solid waste management and  
5           recycling program, under certain circumstances; deleting a  
6           permit requirement for a waste-to-energy facility;  
7           providing an effective date.

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

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11           Section 1.   Section 403.7061, Florida Statutes, is amended  
12           to read:

13           403.7061   Requirements for review of new waste-to-energy  
14           facility capacity by the Department of Environmental  
15           Protection.--

16           (1)   The Legislature recognizes the need to use an  
17           integrated approach to municipal solid waste management.  
18           Accordingly, the solid waste management legislation adopted in  
19           1988 was guided by policies intended to foster integrated solid  
20           waste management by using waste reduction, recycling, waste-to-  
21           energy facilities, and landfills. Progress is being made in the  
22           state using this integrated approach to municipal solid waste  
23           management, and this approach should be continued. Waste-to-  
24           energy facilities will continue to be an integral part of the  
25           state's solid waste management practices. However, the state is  
26           committed to achieving its recycling and waste reduction goals  
27           and must ensure that waste-to-energy facilities are fully  
28           integrated with the state's waste management goals. Therefore,

29 | the Legislature finds that the department should evaluate  
 30 | applications for waste-to-energy facilities in accordance with  
 31 | the new criteria in subsection (3) to confirm that the  
 32 | facilities are part of an integrated waste management plan.

33 |       (2) Notwithstanding any other provisions of state law, the  
 34 | department shall not issue a construction permit or  
 35 | certification to build a waste-to-energy facility or expand an  
 36 | existing waste-to-energy facility unless the facility meets the  
 37 | requirements set forth in subsection (3). Any construction  
 38 | permit issued by the department between January 1, 1993, and May  
 39 | 12, 1993, which does not address these new requirements shall be  
 40 | invalid. These new requirements do not apply to the issuance of  
 41 | permits or permit modifications to retrofit existing facilities  
 42 | with new or improved pollution control equipment to comply with  
 43 | state or federal law. The department shall initiate rulemaking  
 44 | to incorporate the criteria in subsection (3) into its permit  
 45 | review process.

46 |       (3) An applicant must provide reasonable assurance that  
 47 | the construction of a new waste-to-energy facility or the  
 48 | expansion of an existing waste-to-energy facility will comply  
 49 | with the following criteria ~~subsections~~:

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

55 |       (b) The use of capacity at existing waste-to-energy  
 56 | facilities within reasonable transportation distance of the

57 | proposed facility must have been evaluated and found not to be  
58 | economically feasible when compared to the use of the proposed  
59 | facility for the expected life of the proposed facility. This  
60 | paragraph does not apply to:

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

65 |       2. Any modification to waste-to-energy facility  
66 | construction or operating permits or certifications or  
67 | conditions thereto, including certifications under ss. 403.501-  
68 | 403.518, that do not increase combustion capacity above that  
69 | amount applied for before March 1, 1993.

70 |       (c) The county in which the facility is located has  
71 | implemented a solid waste management and recycling program that  
72 | is designed to ~~will~~ achieve the ~~30-percent~~ waste reduction goal  
73 | set forth in s. 403.706(4) ~~by the time the facility begins~~  
74 | ~~operation. For the purposes of this section, the provisions of~~  
75 | ~~s. 403.706(4)(c) for counties with populations of 75,000 or less~~  
76 | ~~do not apply.~~

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

80 |       (e) The local governments served by the facility will have  
81 | implemented or participated in a separation program designed to  
82 | remove small-quantity generator and household hazardous waste,  
83 | mercury containing devices, and mercuric-oxide batteries from

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84 the waste stream prior to incineration, by the time the facility  
85 begins operation.

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

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

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

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

100 (4) For the purposes of this section, the term "waste-to-  
101 energy facility" means a facility that uses an enclosed device  
102 using controlled combustion to thermally break down solid,  
103 liquid, or gaseous combustible solid waste to an ash residue  
104 that contains little or no combustible material and that  
105 produces electricity, steam, or other energy as a result. The  
106 term does not include facilities that primarily burn fuels other  
107 than solid waste even if such facilities also burn some solid  
108 waste as a fuel supplement. The term also does not include  
109 facilities that burn vegetative, agricultural, or silvicultural  
110 wastes, bagasse, clean dry wood, methane or other landfill gas,

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111 | wood fuel derived from construction or demolition debris, or  
112 | waste tires, alone or in combination with fossil fuels.

113 |       Section 2. This act shall take effect October 1, 2005.