

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

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

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 23           Section 1. Section 366.91, Florida Statutes, is created to  
 24           read:

25           366.91 Renewable energy.--  
 26           (1) The Legislature finds that it is in the public  
 27           interest to promote the development of renewable energy  
 28           resources in this state. Renewable energy resources have the

29 potential to help diversify fuel types to meet Florida's growing  
30 dependency on natural gas for electric production, minimize the  
31 volatility of fuel costs, encourage investment within the state,  
32 improve environmental conditions, and make Florida a leader in  
33 new and innovative technologies.

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

35 (a) "Biomass" means a power source that is comprised of,  
36 but not limited to, combustible residues or gases from forest-  
37 products manufacturing, agricultural and orchard crops, waste  
38 products from livestock and poultry operations and food  
39 processing, urban wood waste, municipal solid waste, municipal  
40 liquid waste treatment operations, and landfill gas.

41 (b) "Renewable energy" means electrical energy produced  
42 from a method that uses one or more of the following fuels or  
43 energy sources: hydrogen produced from sources other than fossil  
44 fuels, biomass, solar energy, geothermal energy, wind energy,  
45 ocean energy, and hydroelectric power. The term includes the  
46 alternative energy resource, waste heat, from sulfuric acid  
47 manufacturing operations.

48 (3) On or before January 1, 2006, each public utility must  
49 continuously offer a purchase contract to producers of renewable  
50 energy. The commission shall establish requirements relating to  
51 the purchase of capacity and energy by public utilities from  
52 renewable energy producers and may adopt rules to administer  
53 this section. The contract shall contain payment provisions for  
54 energy and capacity which are based upon the utility's full  
55 avoided costs, as defined in s. 366.051; however, capacity  
56 payments are not required if, due to the operational

57 characteristics of the renewable energy generator or the  
58 anticipated peak and off-peak availability and capacity factor  
59 of the utility's avoided unit, the producer is unlikely to  
60 provide any capacity value to the utility or the electric grid  
61 during the contract term. Each contract must provide a contract  
62 term of at least 10 years. Prudent and reasonable costs  
63 associated with a renewable energy contract shall be recovered  
64 from the ratepayers of the contracting utility, without  
65 differentiation among customer classes, through the appropriate  
66 cost-recovery clause mechanism administered by the commission.

67 (4) On or before January 1, 2006, each municipal electric  
68 utility and rural electric cooperative whose annual sales, as of  
69 July 1, 1993, to retail customers were greater than 2,000  
70 gigawatt hours must continuously offer a purchase contract to  
71 producers of renewable energy containing payment provisions for  
72 energy and capacity which are based upon the utility's or  
73 cooperative's full avoided costs, as determined by the governing  
74 body of the municipal utility or cooperative; however, capacity  
75 payments are not required if, due to the operational  
76 characteristics of the renewable energy generator or the  
77 anticipated peak and off-peak availability and capacity factor  
78 of the utility's avoided unit, the producer is unlikely to  
79 provide any capacity value to the utility or the electric grid  
80 during the contract term. Each contract must provide a contract  
81 term of at least 10 years.

82 (5) A contracting producer of renewable energy must pay  
83 the actual costs of its interconnection with the transmission  
84 grid or distribution system.

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

87 366.11 Certain exemptions.--

88 (1) No provision of this chapter shall apply in any  
 89 manner, other than as specified in ss. 366.04, 366.05(7) and  
 90 (8), 366.051, 366.055, 366.093, 366.095, 366.14, ~~and~~ 366.80-  
 91 366.85, and 366.91, to utilities owned and operated by  
 92 municipalities, whether within or without any municipality, or  
 93 by cooperatives organized and existing under the Rural Electric  
 94 Cooperative Law of the state, or to the sale of electricity,  
 95 manufactured gas, or natural gas at wholesale by any public  
 96 utility to, and the purchase by, any municipality or cooperative  
 97 under and pursuant to any contracts now in effect or which may  
 98 be entered into in the future, when such municipality or  
 99 cooperative is engaged in the sale and distribution of  
 100 electricity or manufactured or natural gas, or to the rates  
 101 provided for in such contracts.

102 Section 3. Section 403.7061, Florida Statutes, is amended  
 103 to read:

104 403.7061 Requirements for review of new waste-to-energy  
 105 facility capacity by the Department of Environmental  
 106 Protection.--

107 (1) The Legislature recognizes the need to use an  
 108 integrated approach to municipal solid waste management.  
 109 Accordingly, the solid waste management legislation adopted in  
 110 1988 was guided by policies intended to foster integrated solid  
 111 waste management by using waste reduction, recycling, waste-to-  
 112 energy facilities, and landfills. Progress is being made in the

113 state using this integrated approach to municipal solid waste  
114 management, and this approach should be continued. Waste-to-  
115 energy facilities will continue to be an integral part of the  
116 state's solid waste management practices. However, the state is  
117 committed to achieving its recycling and waste reduction goals  
118 and must ensure that waste-to-energy facilities are fully  
119 integrated with the state's waste management goals. Therefore,  
120 the Legislature finds that the department should evaluate  
121 applications for waste-to-energy facilities in accordance with  
122 the new criteria in subsection (3) to confirm that the  
123 facilities are part of an integrated waste management plan.

124 (2) Notwithstanding any other provisions of state law, the  
125 department shall not issue a construction permit or  
126 certification to build a waste-to-energy facility or expand an  
127 existing waste-to-energy facility unless the facility meets the  
128 requirements set forth in subsection (3). Any construction  
129 permit issued by the department between January 1, 1993, and May  
130 12, 1993, which does not address these new requirements shall be  
131 invalid. These new requirements do not apply to the issuance of  
132 permits or permit modifications to retrofit existing facilities  
133 with new or improved pollution control equipment to comply with  
134 state or federal law. The department shall initiate rulemaking  
135 to incorporate the criteria in subsection (3) into its permit  
136 review process.

137 (3) An applicant must provide reasonable assurance that  
138 the construction of a new waste-to-energy facility or the  
139 expansion of an existing waste-to-energy facility will comply  
140 with the following criteria ~~subsections~~:

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

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

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

156 2. Any modification to waste-to-energy facility  
 157 construction or operating permits or certifications or  
 158 conditions thereto, including certifications under ss. 403.501-  
 159 403.518, that do not increase combustion capacity above that  
 160 amount applied for before March 1, 1993.

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

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

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

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

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

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

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

191 (4) For the purposes of this section, the term "waste-to-  
192 energy facility" means a facility that uses an enclosed device  
193 using controlled combustion to thermally break down solid,  
194 liquid, or gaseous combustible solid waste to an ash residue  
195 that contains little or no combustible material and that

196 produces electricity, steam, or other energy as a result. The  
197 term does not include facilities that primarily burn fuels other  
198 than solid waste even if such facilities also burn some solid  
199 waste as a fuel supplement. The term also does not include  
200 facilities that burn vegetative, agricultural, or silvicultural  
201 wastes, bagasse, clean dry wood, methane or other landfill gas,  
202 wood fuel derived from construction or demolition debris, or  
203 waste tires, alone or in combination with fossil fuels.

204 Section 4. Requirements relating to solid waste disposal  
205 facility permitting.--Local government applicants for a permit  
206 to construct or expand a Class I landfill are encouraged to  
207 consider construction of a waste-to-energy facility as an  
208 alternative to additional landfill space.

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