

By Senator Crist

12-515-05

See HB

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A bill to be entitled

An act relating to waste-to-energy facilities;  
amending s. 403.7061, F.S.; requiring counties  
with waste-to-energy facilities to implement a  
solid waste management and recycling program  
under certain circumstances; deleting a permit  
requirement for a waste-to-energy facility;  
providing an effective date.

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

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

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

(1) The Legislature recognizes the need to use an  
integrated approach to municipal solid waste management.  
Accordingly, the solid waste management legislation adopted in  
1988 was guided by policies intended to foster integrated  
solid waste management by using waste reduction, recycling,  
waste-to-energy facilities, and landfills. Progress is being  
made in the state using this integrated approach to municipal  
solid waste management, and this approach should be continued.  
Waste-to-energy facilities will continue to be an integral  
part of the state's solid waste management practices. However,  
the state is committed to achieving its recycling and waste  
reduction goals and must ensure that waste-to-energy  
facilities are fully integrated with the state's waste  
management goals. Therefore, the Legislature finds that the  
department should evaluate applications for waste-to-energy

1 facilities in accordance with the new criteria in subsection  
2 (3) to confirm that the facilities are part of an integrated  
3 waste management plan.

4 (2) Notwithstanding any other provisions of state law,  
5 the department shall not issue a construction permit or  
6 certification to build a waste-to-energy facility or expand an  
7 existing waste-to-energy facility unless the facility meets  
8 the requirements set forth in subsection (3). Any construction  
9 permit issued by the department between January 1, 1993, and  
10 May 12, 1993, which does not address these new requirements  
11 shall be invalid. These new requirements do not apply to the  
12 issuance of permits or permit modifications to retrofit  
13 existing facilities with new or improved pollution control  
14 equipment to comply with state or federal law. The department  
15 shall initiate rulemaking to incorporate the criteria in  
16 subsection (3) into its permit review process.

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

21 (a) The facility is a necessary part of the local  
22 government's integrated solid waste management program in the  
23 jurisdiction where the facility is located and cannot be  
24 avoided through feasible and practical efforts to use  
25 recycling or waste reduction.

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

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

6           2. Any modification to waste-to-energy facility  
7 construction or operating permits or certifications or  
8 conditions thereto, including certifications under ss.  
9 403.501-403.518, that do not increase combustion capacity  
10 above that amount applied for before March 1, 1993.

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

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

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

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

30           (g) A program will exist in the local government in  
31 which the facility is located for collecting and recycling

1 recovered material from the institutional, commercial, and  
2 industrial sectors by the time the facility begins operation.

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

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

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

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