

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       electric utilities, and rural electric cooperatives to  
 6       offer a purchase contract to producers of renewable  
 7       energy; providing requirements for such contracts;  
 8       requiring that a producer pay the costs for  
 9       interconnection; amending s. 366.11, F.S.; specifying that  
 10      requirements for the purchase of renewable energy apply to  
 11      certain utilities; amending s. 403.7061, F.S.; revising a  
 12      permit requirement for a waste-to-energy facility;  
 13      encouraging specified applicants for a landfill permit to  
 14      consider construction of a waste-to-energy facility;  
 15      providing an effective date.

16  
 17   Be It Enacted by the Legislature of the State of Florida:

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 19           Section 1.   Section 366.91, Florida Statutes, is created to  
 20   read:

21           366.91 Renewable energy.--  
 22           (1) The Legislature finds that it is in the public  
 23           interest to promote the development of renewable energy  
 24           resources in this state. Renewable energy resources have the  
 25           potential to help diversify fuel types to meet the state's  
 26           growing dependency on natural gas for electric production,  
 27           minimize the volatility of fuel costs, encourage investment  
 28           within the state, improve environmental conditions, and make

29 Florida a leader in new and innovative technologies.

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

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

37 (b) "Renewable energy" means electrical energy produced  
38 from a method that uses one or more of the following fuels or  
39 energy sources: biomass, solar energy, geothermal energy, wind  
40 energy, ocean energy, hydroelectric power, municipal solid  
41 waste, material from municipal liquid waste treatment  
42 operations, landfill gas, or hydrogen produced from sources  
43 other than fossil fuels.

44 (3) On or before January 1, 2006, each public utility must  
45 continuously offer a purchase contract to producers of renewable  
46 energy containing payment provisions for energy and capacity, if  
47 capacity payments are appropriate, which are based upon the  
48 utility's full avoided costs, as defined in s. 366.051. Each  
49 contract must provide a contract term of at least 10 years.

50 Prudent and reasonable costs associated with a renewable energy  
51 contract shall be recovered from the ratepayers of the  
52 contracting utility, without differentiation among customer  
53 classes, through the appropriate cost-recovery clause mechanism  
54 administered by the commission.

55 (4) On or before January 1, 2006, each municipal electric  
56 utility and rural electric cooperative whose annual sales, as of

57 July 1, 1993, to retail customers were greater than 2,000  
 58 gigawatt hours must continuously offer a purchase contract to  
 59 producers of renewable energy containing payment provisions for  
 60 energy and capacity, if capacity payments are appropriate, which  
 61 are based upon the utility's or cooperative's full avoided  
 62 costs, as determined by the governing body of the municipal  
 63 utility or cooperative. Each contract must provide a contract  
 64 term of at least 10 years.

65 (5) A contracting producer of renewable energy must pay  
 66 the actual costs of its interconnection with the transmission  
 67 grid or distribution system.

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

70 366.11 Certain exemptions.--

71 (1) No provision of this chapter shall apply in any  
 72 manner, other than as specified in ss. 366.04, 366.05(7) and  
 73 (8), 366.051, 366.055, 366.093, 366.095, 366.14, ~~and~~ 366.80-  
 74 366.85, and 366.91, to utilities owned and operated by  
 75 municipalities, whether within or without any municipality, or  
 76 by cooperatives organized and existing under the Rural Electric  
 77 Cooperative Law of the state, or to the sale of electricity,  
 78 manufactured gas, or natural gas at wholesale by any public  
 79 utility to, and the purchase by, any municipality or cooperative  
 80 under and pursuant to any contracts now in effect or which may  
 81 be entered into in the future, when such municipality or  
 82 cooperative is engaged in the sale and distribution of  
 83 electricity or manufactured or natural gas, or to the rates  
 84 provided for in such contracts.

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

87 403.7061 Requirements for review of new waste-to-energy  
 88 facility capacity by the Department of Environmental  
 89 Protection.--

90 (3) An applicant must provide reasonable assurance that  
 91 the construction of a new waste-to-energy facility or the  
 92 expansion of an existing waste-to-energy facility will comply  
 93 with the following ~~subsections~~:

94 (a) The facility is a necessary part of the local  
 95 government's integrated solid waste management program in the  
 96 jurisdiction where the facility is located and cannot be avoided  
 97 through feasible and practical efforts to use recycling or waste  
 98 reduction.

99 (b) The use of capacity at existing waste-to-energy  
 100 facilities within reasonable transportation distance of the  
 101 proposed facility must have been evaluated and found not to be  
 102 economically feasible when compared to the use of the proposed  
 103 facility for the expected life of the proposed facility. This  
 104 paragraph does not apply to:

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

109 2. Any modification to waste-to-energy facility  
 110 construction or operating permits or certifications or  
 111 conditions thereto, including certifications under ss. 403.501-  
 112 403.518, that do not increase combustion capacity above that

113 amount applied for before March 1, 1993.

114 (c) The county in which the facility is located has  
 115 implemented a solid waste management and recycling program that  
 116 is designed to achieve the waste-reduction goals established  
 117 pursuant to s. 403.706(4). ~~The county in which the facility is~~  
 118 ~~located will achieve the 30-percent waste reduction goal set~~  
 119 ~~forth in s. 403.706(4) by the time the facility begins~~  
 120 ~~operation. For the purposes of this section, the provisions of~~  
 121 ~~s. 403.706(4)(c) for counties with populations of 75,000 or less~~  
 122 ~~do not apply.~~

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

126 (e) The local governments served by the facility will have  
 127 implemented or participated in a separation program designed to  
 128 remove small-quantity generator and household hazardous waste,  
 129 mercury containing devices, and mercuric-oxide batteries from  
 130 the waste stream prior to incineration, by the time the facility  
 131 begins operation.

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

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

139 (h) The facility will be in compliance with applicable  
 140 local ordinances and with the approved state and local

141 comprehensive plans required by chapter 163.

142 (i) The facility is in substantial compliance with its  
 143 permit, conditions of certification, and any agreements or  
 144 orders resulting from environmental enforcement actions by state  
 145 agencies.

146 (4) For the purposes of this section, the term "waste-to-  
 147 energy facility" means a facility that uses an enclosed device  
 148 using controlled combustion to thermally break down solid,  
 149 liquid, or gaseous combustible solid waste to an ash residue  
 150 that contains little or no combustible material and that  
 151 produces electricity, steam, or other energy as a result. The  
 152 term does not include facilities that primarily burn fuels other  
 153 than solid waste even if such facilities also burn some solid  
 154 waste as a fuel supplement. The term also does not include  
 155 facilities that burn vegetative, agricultural, or silvicultural  
 156 wastes, bagasse, clean dry wood, methane or other landfill gas,  
 157 wood fuel derived from construction or demolition debris, or  
 158 waste tires, alone or in combination with fossil fuels.

159 Section 4. Requirements relating to solid waste disposal  
 160 facility permitting.--Local government applicants for a permit  
 161 to construct or expand a Class I landfill are encouraged to  
 162 consider construction of a waste-to-energy facility as an  
 163 alternative to additional landfill space.

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