

CHAMBER ACTION

1 The Environmental Regulation Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to renewable energy; creating s. 366.91,
7 F.S.; providing legislative findings; providing
8 definitions; requiring public utilities, municipal
9 electric utilities, and rural electric cooperatives to
10 offer a purchase contract to producers of renewable
11 energy; providing requirements for such contracts;
12 requiring that a producer pay the costs for
13 interconnection; amending s. 366.11, F.S.; specifying that
14 requirements for the purchase of renewable energy apply to
15 certain utilities; amending s. 403.7061, F.S.; revising a
16 permit requirement for a waste-to-energy facility;
17 revising an exemption for certain counties; encouraging
18 specified applicants for a landfill permit to consider
19 construction of a waste-to-energy facility; providing an
20 effective date.

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

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

26 366.91 Renewable energy.--

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

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

36 (a) "Biomass" means a power source composed of combustible
37 residues or gases that are derived from organic matter drawn
38 from sources other than fossil fuels, which sources are
39 available on a renewable basis. The term includes, but is not
40 limited to, a power source from forest-products manufacturing;
41 agricultural and orchard crops; waste products from livestock
42 operations, poultry operations, or food processing; urban wood
43 waste; municipal solid waste; municipal liquid waste treatment
44 operations; or landfill gas.

45 (b) "Renewable energy" means electrical energy produced
46 from a method that uses one or more of the following fuels or
47 energy sources: biomass, solar energy, geothermal energy, wind
48 energy, ocean energy, and hydroelectric power.

49 (3) On or before January 1, 2006, each public utility must
50 continuously offer a purchase contract to producers of renewable
51 energy containing payment provisions for energy and capacity

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52 that are based upon the utility's full avoided costs, as defined
53 in s. 366.051; however, capacity payments shall not be required
54 if, due to the operational characteristics of the renewable
55 energy generator or the anticipated peak and off-peak
56 availability and capacity factor of the utility's avoided unit,
57 it is unlikely to provide any capacity value to the utility or
58 the electric grid during the contract term. Each contract must
59 provide a contract term of at least 10 years. Prudent and
60 reasonable costs associated with a renewable energy contract
61 shall be recovered from the ratepayers of the contracting
62 utility, without differentiation among customer classes, through
63 the appropriate cost-recovery clause mechanism administered by
64 the commission.

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

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

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

85 366.11 Certain exemptions.--

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

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

102 403.7061 Requirements for review of new waste-to-energy
 103 facility capacity by the Department of Environmental
 104 Protection.--

105 (3) An applicant must provide reasonable assurance that
 106 the construction of a new waste-to-energy facility or the

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107 expansion of an existing waste-to-energy facility will comply
108 with the following criteria ~~subsections~~:

109 (a) The facility is a necessary part of the local
110 government's integrated solid waste management program in the
111 jurisdiction where the facility is located and cannot be avoided
112 through feasible and practical efforts to use recycling or waste
113 reduction.

114 (b) The use of capacity at existing waste-to-energy
115 facilities within reasonable transportation distance of the
116 proposed facility must have been evaluated and found not to be
117 economically feasible when compared to the use of the proposed
118 facility for the expected life of the proposed facility. This
119 paragraph does not apply to:

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

124 2. Any modification to waste-to-energy facility
125 construction or operating permits or certifications or
126 conditions thereto, including certifications under ss. 403.501-
127 403.518, that do not increase combustion capacity above that
128 amount applied for before March 1, 1993.

129 (c) The county in which the facility is located has
130 implemented and maintains a solid waste management and recycling
131 program that is designed to ~~will~~ achieve the ~~30-percent~~ waste
132 reduction goal set forth in s. 403.706(4) ~~by the time the~~
133 ~~facility begins operation~~. For the purposes of this section, the

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134 provisions of s. 403.706(4)(c) for counties with populations of
135 100,000 ~~75,000~~ or less do not apply.

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

139 (e) The local governments served by the facility will have
140 implemented or participated in a separation program designed to
141 remove small-quantity generator and household hazardous waste,
142 mercury containing devices, and mercuric-oxide batteries from
143 the waste stream prior to incineration, by the time the facility
144 begins operation.

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

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

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

155 (i) The facility is in substantial compliance with its
156 permit, conditions of certification, and any agreements or
157 orders resulting from environmental enforcement actions by state
158 agencies.

159 (4) For the purposes of this section, the term "waste-to-
160 energy facility" means a facility that uses an enclosed device
161 using controlled combustion to thermally break down solid,

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162 liquid, or gaseous combustible solid waste to an ash residue
163 that contains little or no combustible material and that
164 produces electricity, steam, or other energy as a result. The
165 term does not include facilities that primarily burn fuels other
166 than solid waste even if such facilities also burn some solid
167 waste as a fuel supplement. The term also does not include
168 facilities that burn vegetative, agricultural, or silvicultural
169 wastes, bagasse, clean dry wood, methane or other landfill gas,
170 wood fuel derived from construction or demolition debris, or
171 waste tires, alone or in combination with fossil fuels.

172 Section 4. Requirements relating to solid waste disposal
173 facility permitting.--Local government applicants for a permit
174 to construct or expand a Class I landfill are encouraged to
175 consider construction of a waste-to-energy facility as an
176 alternative to additional landfill space.

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