

By Senator Bennett

21-1503-07

1 A bill to be entitled
2 An act relating to renewable energy; amending
3 s. 366.051, F.S.; requiring the Florida Public
4 Service Commission to authorize payment of a
5 specified rate for certain purchases of biogas
6 by a public utility; amending s. 526.302, F.S.;
7 providing legislative intent with respect to
8 compliance with federal standards for renewable
9 fuels; amending s. 526.303, F.S.; redefining
10 the term "motor fuel" to include fuels having
11 less than a specified percent of ethanol or
12 biodiesel; amending s. 526.309, F.S.; exempting
13 certain sales of biodiesel or a blend of
14 ethanol or biodiesel with gasoline from the
15 Motor Fuel Marketing Practices Act; creating s.
16 570.956, F.S.; creating the Farm-to-Fuel
17 Advisory Council in the Department of
18 Agriculture and Consumer Services; requiring
19 the Commissioner of Agriculture to appoint
20 members of the council; providing for the
21 purpose, membership, and operation of the
22 council; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Section 366.051, Florida Statutes, is
27 amended to read:
28 366.051 Cogeneration; small power production;
29 commission jurisdiction.--Electricity produced by cogeneration
30 and small power production benefits ~~is of benefit to~~ the
31 public when included as part of the total energy supply of the

1 entire electric grid of the state or consumed by a cogenerator
2 or small power producer. The electric utility in whose service
3 area a cogenerator or small power producer is located shall
4 purchase, in accordance with applicable law, all electricity
5 offered for sale by such cogenerator or small power producer;
6 or the cogenerator or small power producer may sell such
7 electricity to any other electric utility in the state. The
8 commission shall establish guidelines relating to the purchase
9 of power or energy by public utilities from cogenerators or
10 small power producers and may set rates at which a public
11 utility must purchase power or energy from a cogenerator or
12 small power producer. In fixing rates for power purchased by
13 public utilities from cogenerators or small power producers,
14 the commission shall authorize a rate equal to the purchasing
15 utility's full avoided costs. However, when a utility
16 purchases power generated from biogas produced by the
17 anaerobic digestion of agricultural waste, the commission
18 shall authorize a rate equal to the rate that the seller pays
19 the utility from which it receives electric service. A
20 utility's "full avoided costs" are the incremental costs to
21 the utility of the electric energy or capacity, or both,
22 which, but for the purchase from cogenerators or small power
23 producers, such utility would generate itself or purchase from
24 another source. The commission may use a statewide avoided
25 unit when setting full avoided capacity costs. If the
26 cogenerator or small power producer provides adequate
27 security, based on its financial stability, and no costs in
28 excess of full avoided costs are likely to be incurred by the
29 electric utility over the term during which electricity is to
30 be provided, the commission shall authorize the levelization
31 of payments and the elimination of discounts due to risk

1 factors in determining the rates. Public utilities shall
2 provide transmission or distribution service to enable a
3 retail customer to transmit electrical power generated by the
4 customer at one location to the customer's facilities at
5 another location, if the commission finds that the provision
6 of this service, and the charges, terms, and other conditions
7 associated with the provision of this service, are not likely
8 to result in higher cost electric service to the utility's
9 general body of retail and wholesale customers or adversely
10 affect the adequacy or reliability of electric service to all
11 customers. Notwithstanding any other provision of law, power
12 generated by the customer and provided by the utility to the
13 customers' facility at another location is subject to the
14 gross receipts tax imposed under s. 203.01 and the use tax
15 imposed under s. 212.06. Such taxes shall apply at the time
16 the power is provided at such other location and shall be
17 based upon the cost price of such power as provided in s.
18 212.06(1)(b).

19 Section 2. Section 526.302, Florida Statutes, is
20 amended to read:

21 526.302 Legislative findings and intent.--The
22 Legislature finds that fair and healthy competition in the
23 marketing of motor fuel provides maximum benefits to consumers
24 in this state, and that certain marketing practices which
25 impair such competition are contrary to the public interest.
26 Predatory practices and, under certain conditions,
27 discriminatory practices, are unfair trade practices and
28 restraints which adversely affect motor fuel competition. It
29 is the intent of the Legislature to encourage competition and
30 promote the general welfare of citizens of this state by
31 prohibiting such unfair practices. The Legislature also

1 intends to facilitate compliance with the Renewable Fuels
2 Standard in the federal Energy Policy Act of 2005.

3 Section 3. Subsection (5) of section 526.303, Florida
4 Statutes, is amended to read:

5 526.303 Definitions.--As used in this act:

6 (5) "Motor fuel" means any petroleum product
7 containing less than 10 percent by volume of ethanol or
8 biodiesel, ~~including any special fuel~~, which is used for the
9 propulsion of motor vehicles.

10 Section 4. Section 526.309, Florida Statutes, is
11 amended to read:

12 526.309 Exempt sales.--The Motor Fuel Marketing
13 Practice Act ~~does provisions of this act shall~~ not apply to:

14 (1) The following retail sales by a refiner:

15 ~~(a)(1)~~ A bona fide clearance sale for the purpose of
16 discontinuing trade in such motor fuel.

17 ~~(b)(2)~~ A final business liquidation sale.

18 ~~(c)(3)~~ A sale of the refiner's motor fuel by a
19 fiduciary or other officer under the order or direction of any
20 court.

21 ~~(d)(4)~~ Sales made during a grand opening to introduce
22 a new or remodeled business not to exceed 3 days, which grand
23 opening shall be held within 60 days from the date the new or
24 remodeled business begins operations.

25 (2) Sales of a blend of ethanol and gasoline in which
26 the percentage of ethanol by volume is 10 percent or more and
27 which is designated as EXX, substituting a number that
28 represents the percentage of ethanol in the blend for the XX
29 so that, for example, a blend having a volume of 10 percent
30 ethanol is designated as E10.

31 (3) Sales of biodiesel.

1 (4) Sales of a blend of biodiesel and gasoline in
2 which the percentage of biodiesel by volume is 10 percent or
3 more and which is designated as BXX, substituting a number
4 that represents the percentage of biodiesel in the blend for
5 the XX so that, for example, a blend having a volume of 10
6 percent biodiesel is designated as B10.

7 Section 5. Section 570.956, Florida Statutes, is
8 created to read:

9 570.956 Farm-to-Fuel Advisory Council.--

10 (1) The Farm-to-Fuel Advisory Council is created
11 within the department to provide advice and counsel to the
12 commissioner concerning the production of renewable energy in
13 this state. The advisory council consists of 12 members who
14 shall be appointed by the commissioner for 4-year terms or
15 until a successor is duly qualified and appointed. Members
16 shall include:

17 (a) One citizen-at-large member who shall represent
18 the views of the public toward renewable energy.

19 (b) Six members each of whom is a producer or grower
20 actively engaged in the agricultural area of one of the
21 following industries:

22 1. Sugarcane.

23 2. Citrus.

24 3. Field crops.

25 4. Dairy.

26 5. Livestock or poultry.

27 6. Forestry.

28 (c) One member who represents the petroleum industry
29 or who is actively engaged in the trade of petroleum products.

30 (d) One member who represents public utilities or the
31 electric power industry.

1 (e) Two members who represent colleges and
2 universities in this state and who are engaged in research
3 involving alternative fuels or renewable energy.

4 (f) One member who represents the environmental
5 community or an environmental organization.

6 (2) The council is an advisory committee the operation
7 of which is governed by s. 570.0705.

8 Section 6. This act shall take effect July 1, 2007.
9

10 *****

11 SENATE SUMMARY

12 Requires the Florida Public Service Commission to
13 authorize payment of a specified rate for certain
14 purchases of biogas by a public utility. Revises a
15 definition of the term "motor fuel" in the Motor Fuel
16 Marketing Practices Act to include fuels having less than
17 a specified percentage of ethanol or biodiesel. Exempts
18 certain sales of biodiesel or of a blend of ethanol or
19 biodiesel with gasoline from that act. Creates the
20 Farm-to-Fuel Advisory Council in the Department of
21 Agriculture and Consumer Services. Requires the
22 Commissioner of Agriculture to appoint members of the
23 council. Provides for the purpose, membership, and
24 operation of the council.
25
26
27
28
29
30
31