

By Senator Haridopolos

26-01597B-09

20092068__

1 A bill to be entitled
2 An act relating to alternative energy facilities;
3 creating s. 125.0112, F.S.; providing that the
4 construction and operation of a biofuel processing
5 facility or a renewable energy generating facility and
6 the cultivation and production of bioenergy
7 constitutes a valid industrial and agricultural use
8 for purposes of any local zoning regulation;
9 prohibiting such regulation from requiring the owner
10 or operator of the facility to obtain a special
11 exemption, use permit, waiver, or variance, or to pay
12 a special fee exceeding a specified amount; amending
13 s. 373.236, F.S.; requiring that a permit for the use
14 of water for cultivating agricultural products and
15 renewable energy be granted for a specified number of
16 years if certain conditions are met; providing
17 requirements for permittees; providing an exemption;
18 amending s. 403.973, F.S.; providing for the expedited
19 review of permit applications for projects resulting
20 in the production of biofuels or in the construction
21 of a biofuel or biodiesel processing facility or
22 renewable energy generating facility; clarifying
23 provisions relating to memoranda of agreement which
24 establish regional teams for the expedited review of
25 such applications; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Section 125.0112, Florida Statutes, is created

26-01597B-09

20092068__

30 to read:

31 125.0112 Biofuels and renewable energy.—The construction
32 and operation of a biofuel processing facility or a renewable
33 energy generating facility, as defined in s. 366.91(2)(d), and
34 the cultivation and production of bioenergy, as defined in s.
35 570.957(1)(a), constitutes a valid industrial and agricultural
36 use for purposes of any local zoning regulation. Such regulation
37 may not require the owner or operator of a biofuel processing
38 facility or a renewable energy generating facility to obtain any
39 special exemption, use permit, waiver, or variance, or to pay
40 any special fee in excess of \$1,000 to operate in an area zoned
41 for agricultural or industrial use.

42 Section 2. Subsection (6) is added to section 373.236,
43 Florida Statutes, to read:

44 373.236 Duration of permits; compliance reports.—

45 (6) A permit that is approved for the use of water for
46 cultivating agricultural products on lands consisting of 5,000
47 acres or more and for renewable energy, as defined in s.
48 366.91(2)(d), shall be granted for a term of at least 25 years
49 commensurate with the foreseeable life of the renewable energy
50 generating facility, including the extension of a facility's
51 life from viable repowering projects. The permittee shall
52 provide a compliance report every 5 years during the term of the
53 permit as required in subsection (4); however, s. 373.243(4)
54 does not apply due to the financial and land requirements that
55 must be met before initiating energy production.

56 Section 3. Subsections (3), (4), (7), and (11), paragraph
57 (b) of subsection (13), paragraph (b) of subsection (14),
58 subsection (15), and paragraph (b) of subsection (19) of section

26-01597B-09

20092068__

59 403.973, Florida Statutes, are amended to read:

60 403.973 Expedited permitting; comprehensive plan
61 amendments.—

62 (3) (a) The Governor, through the office, shall direct the
63 creation of regional permit action teams, for the purpose of
64 expediting review of permit applications and local comprehensive
65 plan amendments submitted by:

- 66 1. Businesses creating at least 100 jobs, or
67 2. Businesses creating at least 50 jobs if the project is
68 located in an enterprise zone, or in a county having a
69 population of less than 75,000 or in a county having a
70 population of less than 100,000 which is contiguous to a county
71 having a population of less than 75,000, as determined by the
72 most recent decennial census, residing in incorporated and
73 unincorporated areas of the county. ~~or~~

74 (b) On a case-by-case basis and at the request of a county
75 or municipal government, the office may certify as eligible for
76 expedited review a project not meeting the minimum job creation
77 thresholds but creating a minimum of 10 jobs. The recommendation
78 from the governing body of the county or municipality in which
79 the project may be located is required in order for the office
80 to certify that any project is eligible for expedited review
81 under this paragraph. When considering projects that do not meet
82 the minimum job creation thresholds but that are recommended by
83 the governing body in which the project may be located, the
84 office shall consider economic impact factors that include, but
85 are not limited to:

- 86 1. The proposed wage and skill levels relative to those
87 existing in the area in which the project may be located;

26-01597B-09

20092068__

88 2. The project's potential to diversify and strengthen the
89 area's economy;

90 3. The amount of capital investment; and

91 4. The number of jobs that will be made available for
92 persons served by the welfare transition program.

93 (c) At the request of a county or municipal government, the
94 office or a Quick Permitting County may certify projects located
95 in counties where the ratio of new jobs per participant in the
96 welfare transition program, as determined by Workforce Florida,
97 Inc., is less than one or otherwise critical, as eligible for
98 the expedited permitting process. Such projects must meet the
99 numerical job creation criteria of this subsection, but the jobs
100 created by the project do not have to be high-wage jobs that
101 diversify the state's economy.

102 (d) Projects located in a designated brownfield area are
103 eligible for the expedited permitting process.

104 (e) Projects that are part of the state-of-the-art
105 biomedical research institution and campus to be established in
106 this state by the grantee under s. 288.955 are eligible for the
107 expedited permitting process, if the projects are designated as
108 part of the institution or campus by the board of county
109 commissioners of the county in which the institution and campus
110 are established.

111 (f) Projects that result in the production of biofuels
112 cultivated on lands consisting of 5,000 acres or more, or in the
113 construction of a biofuel or biodiesel processing facility or
114 renewable energy generating facility as defined in s.
115 366.91(2)(d), are eligible for the expedited permitting process.

116 (4) The regional teams shall be established through the

26-01597B-09

20092068

117 execution of memoranda of agreement developed by the applicant
118 and between the office with input solicited from ~~and~~ the
119 respective heads of the Department of Environmental Protection,
120 the Department of Community Affairs, the Department of
121 Transportation and its district offices, the Department of
122 Agriculture and Consumer Services, the Fish and Wildlife
123 Conservation Commission, appropriate regional planning councils,
124 appropriate water management districts, and voluntarily
125 participating municipalities and counties. The memoranda of
126 agreement must ~~should also~~ accommodate participation in the ~~this~~
127 expedited process by other local governments and federal
128 agencies as circumstances warrant.

129 (7) An appeal ~~At the option of the participating local~~
130 ~~government, appeals~~ of a local government's ~~its final~~ approval
131 for a project must ~~may~~ be conducted pursuant to the summary
132 hearing provisions in ~~of~~ s. 120.574, pursuant to subsection
133 (14), and consolidated with the challenge of applicable state
134 agency actions, if any ~~or pursuant to other appellate processes~~
135 ~~available to the local government. The local government's~~
136 ~~decision to enter into a summary hearing must be made as~~
137 ~~provided in s. 120.574 or in the memorandum of agreement.~~

138 (11) The standard form memorandum ~~memoranda~~ of agreement
139 must ~~shall~~ include guidelines to be used in working with state,
140 regional, and local permitting authorities. Guidelines may
141 include, but are not limited to, the following:

142 (a) A central contact point for filing permit applications
143 and local comprehensive plan amendments and for obtaining
144 information on permit and local comprehensive plan amendment
145 requirements;

26-01597B-09

20092068__

146 (b) Identification of the individual or individuals within
147 each respective agency who will be responsible for processing
148 the expedited permit application or local comprehensive plan
149 amendment for the ~~that~~ agency;

150 (c) A mandatory preapplication review process to reduce
151 permitting conflicts by providing guidance to applicants
152 regarding the permits needed from each agency and governmental
153 entity, site planning and development, site suitability and
154 limitations, facility design, and steps the applicant can take
155 to ensure expeditious permit application and local comprehensive
156 plan amendment review. As a part of the ~~this~~ process, the first
157 interagency meeting to discuss a project shall be held within 14
158 days after the office's determination that the project is
159 eligible for expedited review. Subsequent interagency meetings
160 may be scheduled to accommodate the needs of participating local
161 governments that are unable to meet public notice requirements
162 for executing a memorandum of agreement within the ~~this~~
163 timeframe. Such ~~This~~ accommodation may not exceed 45 days from
164 the office's determination that the project is eligible for
165 expedited review;

166 (d) The preparation of a single coordinated project
167 description form and checklist and an agreement by state and
168 regional agencies to reduce the burden on an applicant to
169 provide duplicate information to multiple agencies;

170 (e) ~~Establishment of~~ A process for the adoption and review
171 of any comprehensive plan amendment needed by any certified
172 project within 90 days after the submission of an application
173 for a comprehensive plan amendment. However, the memorandum of
174 agreement may not prevent affected persons as defined in s.

26-01597B-09

20092068__

175 163.3184 from appealing or participating in the ~~this~~ expedited
176 plan amendment process and any review or appeals of decisions
177 made under this paragraph; and

178 (f) Additional incentives for an applicant who proposes a
179 project that provides a net ecosystem benefit.

180 (13) Notwithstanding any other provisions of law:

181 (b) Projects that are qualified under this section are not
182 subject to interstate highway level-of-service standards adopted
183 by the Department of Transportation for concurrency purposes.
184 The memorandum of agreement specified in subsection (5) must
185 include a process by which the applicant will be assessed a fair
186 share of the cost of mitigating the project's significant
187 traffic impacts, as defined in chapter 380 and related rules.
188 The agreement must also specify whether the significant traffic
189 impacts on the interstate system will be mitigated through the
190 implementation of a project or payment of funds to the
191 Department of Transportation. If ~~Where~~ funds are paid, the
192 Department of Transportation must include in the 5-year work
193 program transportation projects or project phases, in an amount
194 equal to the funds received, to mitigate the traffic impacts
195 associated with the proposed project.

196 (14)

197 (b) Challenges to state agency action in the expedited
198 permitting process for establishment of a state-of-the-art
199 biomedical research institution and campus in the ~~this~~ state by
200 the grantee under s. 288.955 or a project identified in
201 paragraph (3) (f) are subject to the same requirements as
202 challenges brought under paragraph (a), except that,
203 notwithstanding s. 120.574, summary proceedings must be

26-01597B-09

20092068__

204 conducted within 30 days after a party files the motion for
205 summary hearing, regardless of whether the parties agree to the
206 summary proceeding.

207 (15) The office, working with the agencies that provide
208 input to participating in the memoranda of agreement, shall
209 review sites proposed for the location of facilities eligible
210 for the Innovation Incentive Program under s. 288.1089. Within
211 20 days after the request for the review by the office, the
212 agencies shall provide to the office a statement as to each
213 site's necessary permits under local, state, and federal law and
214 an identification of significant permitting issues, which if
215 unresolved, may result in the denial of an agency permit or
216 approval or any significant delay caused by the permitting
217 process.

218 (19) The following projects are ineligible for review under
219 this part:

220 (b) A project, the primary purpose of which is to:

221 1. Effect the final disposal of solid waste, biomedical
222 waste, or hazardous waste in this state.

223 2. Produce electrical power, unless the production of
224 electricity is incidental and not the primary function of the
225 project or the electrical power is derived from a renewable
226 energy fuel source as defined in s. 366.91(2)(d).

227 3. Extract natural resources.

228 4. Produce oil.

229 5. Construct, maintain, or operate an oil, petroleum,
230 natural gas, or sewage pipeline.

231 Section 4. This act shall take effect upon becoming a law.