

By Senator Altman

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1 A bill to be entitled
2 An act relating to renewable energy; creating s.
3 366.925, F.S.; providing a short title; defining
4 terms; requiring investor-owned electric utilities and
5 participating municipal electric utilities and rural
6 electric cooperatives to collect renewable energy fees
7 from retail electric customers; providing for the
8 deposit and use of such fees; providing procedures for
9 municipal electric utilities and rural electric
10 cooperatives to participate or terminate their
11 participation; providing for the continuation of
12 contract payments and the collection of renewable
13 energy fees after a participating electric utility
14 terminates its participation; providing eligibility
15 criteria and application requirements for renewable
16 energy facilities; authorizing the Florida Energy and
17 Climate Commission to issue and revoke certificates of
18 eligibility under certain circumstances and to adopt
19 rules; requiring participating electric utilities to
20 provide interconnection service and enter into
21 purchase contracts with producers of certain types of
22 renewable energy; providing requirements and limiting
23 fees for such interconnection service; requiring
24 certain provisions in purchase contracts; requiring
25 the Public Service Commission to disburse certain
26 funds for the payment of renewable energy incentives
27 to eligible facilities; requiring the Public Service
28 Commission to adopt a schedule of incentive payments
29 based on certain requirements; requiring producers to

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30 provide certain proof related to their renewable
31 energy facilities; authorizing the Public Service
32 Commission to enter the premises and conduct
33 inspections of certain renewable energy facilities;
34 requiring that purchase contracts be approved by the
35 Public Service Commission; requiring temporary
36 reductions of incentive payments to cover shortfalls
37 in renewable energy fee collections; providing for the
38 termination of a facility's incentive payments under
39 certain circumstances; amending s. 366.11, F.S.;

40 conforming provisions; providing an effective date.

41
42 WHEREAS, the Legislature recognizes the vital role that the
43 agricultural industry plays in the economy of this state and
44 that growth in this industry can translate to greater economic
45 benefits and job growth in this state, and

46 WHEREAS, the Legislature also recognizes that one area for
47 potential growth in the agricultural industry is to encourage
48 the use of agricultural plant materials, farm waste, and feed
49 stock to produce alternative energy resources that can be used
50 to generate electricity, and

51 WHEREAS, the Legislature recognizes that no opportunity
52 currently exists in this state to allow for farm byproducts and
53 other alternative resources to be used to create energy
54 resources to generate electricity, NOW, THEREFORE,

55
56 Be It Enacted by the Legislature of the State of Florida:

57
58 Section 1. Section 366.925, Florida Statutes, is created to

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59 read:

60 366.925 Renewable energy incentives for biomass, solar, and
61 wind energy; retail electric customer fees.-

62 (1) SHORT TITLE.-This section may be cited as the "Florida
63 Farm to Energy Act."

64 (2) DEFINITIONS.-As used in this section, the term:

65 (a) "Biomass" means a power source that is comprised of,
66 but not limited to, combustible residues or gases from forest
67 products manufacturing, waste, byproducts, or products from
68 agricultural and orchard crops, waste or coproducts from
69 livestock and poultry operations, waste or byproducts from food
70 processing, urban wood waste, municipal solid waste, municipal
71 liquid waste treatment operations, and landfill gas.

72 (b) "Biomass facility" means a facility that generates
73 electricity through the controlled combustion of biomass as
74 defined in s. 366.91 which is produced in the United States.

75 (c) "Eligible renewable energy facility" means a biomass,
76 solar, or wind energy facility that is issued a certificate of
77 eligibility by the Florida Energy and Climate Commission.

78 (d) "Interconnection service" means connection of a
79 producer's eligible renewable energy facility to an electric
80 utility's electric grid.

81 (e) "Participating electric utility" means an investor-
82 owned electric utility or a municipal electric utility or rural
83 electric cooperative that chooses to participate under paragraph
84 (3) (c).

85 (f) "Purchase contract" means an agreement by which an
86 electric utility pays a producer for the electricity generated
87 by the producer's eligible renewable energy facility and

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88 delivered to the utility's electric grid.

89 (g) "Solar energy facility" means a facility that generates
90 electricity by converting solar radiation into electricity.

91 (h) "Wind energy facility" means a facility that generates
92 electricity by converting the kinetic energy of wind into
93 electricity.

94 (3) RENEWABLE ENERGY FEES; PARTICIPATING ELECTRIC
95 UTILITIES.—

96 (a) Effective January 1, 2011, each investor-owned electric
97 utility, and each municipal electric utility or rural electric
98 cooperative that chooses to participate under paragraph (c),
99 shall impose a renewable energy fee upon each of its retail
100 electric service customers of a certain amount as determined by
101 the Public Service Commission. The fees shall be collected and
102 deposited monthly into the Florida Public Service Regulatory
103 Trust Fund according to rules adopted by the commission.

104 (b) Renewable energy fees collected from customers of an
105 investor-owned electric utility shall be used to pay renewable
106 energy incentives to facilities located within the territory
107 served by any investor-owned electric utility in the state. Fees
108 collected from customers of a municipal electric utility or
109 rural electric cooperative may be used only to pay renewable
110 energy incentives to facilities located within the territory
111 served by that respective utility or cooperative.

112 (c) A municipal electric utility or rural electric
113 cooperative that, upon approval of its governing authority,
114 chooses to participate shall notify the commission in the format
115 prescribed by the commission. Such notice must include the date
116 that the municipal electric utility or rural electric

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117 cooperative will begin to impose and collect renewable energy
118 fees.

119 (d) A municipal electric utility or rural electric
120 cooperative that chooses to terminate its participation shall
121 notify the commission in the format prescribed by the
122 commission. Such notice must include the date that the municipal
123 electric utility or rural electric cooperative will cease to
124 impose renewable energy fees. The commission, upon receipt of
125 such notice, may not approve new purchase contracts for
126 additional facilities within the territory served by that
127 utility or cooperative. However, the municipal electric utility
128 or rural electric cooperative shall continue payments under any
129 previously approved purchase contract, and shall continue
130 collecting renewable energy fees needed for payment of
131 incentives pursuant to subsection (7), until expiration of the
132 contract.

133 (4) RENEWABLE ENERGY FACILITIES; CERTIFICATES OF
134 ELIGIBILITY.-

135 (a) A producer seeking a certificate of eligibility for the
136 producer's biomass, solar, or wind energy facility shall apply
137 to the Florida Energy and Climate Commission. An application
138 must be submitted in the format prescribed by the Florida Energy
139 and Climate Commission and must include:

140 1. The location of the producer's biomass, solar, or wind
141 energy facility.

142 2. A description of the primary energy input of the
143 producer's facility, whether biomass, solar, or wind, and, if
144 the facility's primary energy input is biomass, a description of
145 the type of biomass input, which may include, but is not limited

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146 to, landfill gas, manure digester gas, municipal solid waste,
147 sewage digester gas, wood, or agricultural byproduct.

148 3. Proof that the producer's facility has qualifying
149 facility status pursuant to 18 C.F.R. Part 292, whether self-
150 certified or certified by the Federal Energy Regulatory
151 Commission.

152 (b) The Florida Energy and Climate Commission shall issue a
153 certificate of eligibility for a producer's biomass, solar, or
154 wind energy facility if:

155 1. The application is complete and accompanied by an
156 application fee not to exceed \$250.

157 2. The facility is located within the territory served by a
158 participating electric utility.

159 (c) The Florida Energy and Climate Commission shall revoke
160 a facility's certificate of eligibility if the Federal Energy
161 Regulatory Commission revokes the facility's qualifying facility
162 status.

163 (d) The Florida Energy and Climate Commission may adopt
164 rules to administer this subsection.

165 (5) INTERCONNECTION SERVICE.—Notwithstanding any other
166 provision of law:

167 (a) A participating electric utility that serves a
168 territory in which an eligible renewable energy facility is
169 located shall, within 60 days after the producer's request,
170 provide the facility with interconnection service and enter into
171 a purchase contract with the producer.

172 (b) The interconnection service must comply with the
173 interconnection standards adopted by the commission and the
174 Florida Reliability Coordinating Council, Inc.

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175 (c) The interconnection service must include installation
176 of supply oriented metering equipment that measures the
177 electricity generated by the producer's eligible renewable
178 energy facility and delivered to the utility's electric grid.

179 (d) An electric utility may not charge fees for
180 interconnection service that exceed the utility's incremental
181 cost of providing such service.

182 (6) PURCHASE CONTRACTS.-

183 (a) A purchase contract must provide for the participating
184 electric utility's purchase of the electricity generated by the
185 producer's eligible renewable energy facility and delivered to
186 the utility's electric grid.

187 (b) The Public Service Commission shall establish
188 requirements for the purchase of energy and capacity by
189 participating electric utilities from eligible renewable energy
190 facilities. A purchase contract shall contain payment provisions
191 for energy and capacity which are based upon the utility's full
192 avoided costs as defined in s. 366.051; however, capacity
193 payments are not required if, due to the operational
194 characteristics of the renewable energy facility or the
195 anticipated peak and off-peak availability and capacity factor
196 of the utility's avoided unit, the producer is unlikely to
197 provide any capacity value to the utility or the electric grid
198 during the contract term.

199 (c) Prudent and reasonable costs associated with a purchase
200 contract shall be recovered from the ratepayers of the
201 contracting utility, without differentiation among customer
202 classes, through the appropriate cost-recovery clause mechanism
203 administered by the commission.

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204 (d) A purchase contract must provide a contract term of at
205 least 20 years.

206 (e) A purchase contract must provide for the renewable
207 energy facility's environmental attributes, including, but not
208 limited to, greenhouse gas emissions credits and renewable
209 energy certificates to transfer to the contracting utility.

210 (7) RENEWABLE ENERGY INCENTIVES.-

211 (a) Effective January 1, 2011, the Public Service
212 Commission shall disburse to each participating electric utility
213 from among the renewable energy fees collected pursuant to
214 subsection (3) funds for the payment of renewable energy
215 incentives to eligible renewable energy facilities that have
216 entered into purchase contracts with the utility.

217 (b) The renewable energy incentives shall be paid according
218 to a schedule adopted by the Public Service Commission based on
219 market research of the various costs of generating renewable
220 energy. The incentive payment rates, together with the utility's
221 full avoided costs paid under the purchase contract, must be
222 sufficient to ensure that the development of renewable energy
223 generation is cost-effective and profitable for producers.

224 (c) The schedule shall establish differentiated rates for
225 incentive payments based on a facility's primary energy input as
226 described in subparagraph (4)(a)2., the methodology or
227 technology used by the facility to generate electricity, and the
228 size of the facility.

229 (d) A producer must provide proof of the primary energy
230 input and the quantity and origin of the resources used to
231 generate electricity at the producer's renewable energy
232 facility.

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233 (e) The commission or its duly authorized representatives
234 may during all reasonable hours enter the premises of a
235 renewable energy facility receiving incentive payments under
236 this section and may set up and use on the premises all
237 necessary apparatus and appliances for the purpose of making
238 investigations, inspections, examinations, and tests. The
239 facility has the right to be notified of and be represented
240 during such investigations, inspections, examinations, and
241 tests.

242 (8) FLORIDA ENERGY AND CLIMATE COMMISSION APPROVAL OF
243 PURCHASE CONTRACTS; FUND MANAGEMENT.-

244 (a) A purchase contract may not take effect until approved
245 by the commission. The commission may approve a purchase
246 contract only if:

247 1. The contracting utility is a participating electric
248 utility.

249 2. The producer's renewable energy facility has a
250 certificate of eligibility issued by the Florida Energy and
251 Climate Commission.

252 3. The terms and conditions of the purchase contract comply
253 with the requirements of this section, including, but not
254 limited to, provisions for the utility's payment of its full
255 avoided costs.

256 4. Based on the commission's analysis, the renewable energy
257 fees collected pursuant to subsection (3) are estimated to
258 produce sufficient revenues to pay renewable energy incentives
259 to the facility through the end of the contract term.

260 (b) If the amount of renewable energy fees available for
261 disbursement to participating electric utilities is not

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262 sufficient for payment of renewable energy incentives to all
263 renewable energy facilities whose purchase contracts are
264 approved by the commission, the commission shall:

265 1. Proportionately reduce each facility's incentive
266 payments to cover the shortfall.

267 2. Not approve new purchase contracts for additional
268 facilities whose incentive payments would be paid from those
269 renewable energy fees.

270 3. As additional renewable energy fees become available for
271 disbursement, increase each facility's incentive payments until
272 the payments are current and any amounts of unpaid incentives
273 caused by the payment reductions are paid.

274 (c) A renewable energy facility shall cease to receive
275 incentive payments if:

276 1. Its certificate of eligibility is revoked by the Florida
277 Energy and Climate Commission.

278 2. The Florida Energy and Climate Commission determines
279 that the facility has failed to provide proof of the primary
280 energy input and the quantity and origin of the resources used
281 to generate electricity at the facility.

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

284 366.11 Certain exemptions.—

285 (1) No provision of this chapter shall apply in any manner,
286 other than as specified in ss. 366.04, 366.05(7) and (8),
287 366.051, 366.055, 366.093, 366.095, 366.14, 366.80-366.85, ~~and~~
288 366.91, and 366.925 to utilities owned and operated by
289 municipalities, whether within or without any municipality, or
290 by cooperatives organized and existing under the Rural Electric

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291 Cooperative Law of the state, or to the sale of electricity,
292 manufactured gas, or natural gas at wholesale by any public
293 utility to, and the purchase by, any municipality or cooperative
294 under and pursuant to any contracts now in effect or which may
295 be entered into in the future, when such municipality or
296 cooperative is engaged in the sale and distribution of
297 electricity or manufactured or natural gas, or to the rates
298 provided for in such contracts.

299 Section 3. This act shall take effect July 1, 2010.