

By Senator Altman

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1                   A bill to be entitled  
2           An act relating to energy policy; amending s. 125.01,  
3           F.S.; prohibiting a county from regulating local  
4           renewable energy devices in a manner more stringent  
5           than required under the Florida Building Code;  
6           amending s. 166.041, F.S.; prohibiting a municipality  
7           from regulating local renewable energy devices in a  
8           manner more stringent than required under the Florida  
9           Building Code; prohibiting a municipality from  
10          enacting ordinances or adopting resolutions requiring  
11          real property to connect to a specific electric  
12          utility service; amending s. 366.02, F.S.; revising  
13          definitions; amending s. 366.91, F.S.; revising and  
14          providing definitions; authorizing a local renewable  
15          energy supplier to sell local renewable energy to  
16          certain end users; specifying conditions under which  
17          an end user of electrical energy may interconnect with  
18          a local renewable energy supplier or a local electric  
19          utility; providing for establishment of terms under  
20          which a local renewable energy supplier may  
21          interconnect with a public utility, a municipal  
22          electric utility, or a rural electric cooperative;  
23          providing conditions under which certain net metering  
24          provisions apply to a local renewable energy supplier;  
25          providing procedures for the accumulation and use of  
26          credits; prohibiting an electric utility from imposing  
27          new or additional charges or fees to customers who  
28          engage in net metering or buy power from certain  
29          energy suppliers; providing exceptions; specifying  
30          conditions under which a developer, a homeowners'  
31          association, or a property owners' association is not  
32          considered an electric utility when providing

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33 electricity to certain parcels; amending s. 720.3035,  
34 F.S.; prohibiting any covenant, standard, or guideline  
35 in a declaration of covenants from regulating local  
36 renewable energy devices in a manner more stringent  
37 than required under the Florida Building Code;  
38 amending ss. 366.92, 373.236, and 403.973, F.S.;  
39 conforming cross-references; creating s. 366.8253,  
40 F.S.; prohibiting under certain circumstances the  
41 enactment or enforcement of certain state laws, rules,  
42 or executive orders enacted pursuant to federal  
43 regulations that mandate state action; providing an  
44 effective date.

45  
46 Be It Enacted by the Legislature of the State of Florida:

47  
48 Section 1. Subsection (8) is added to section 125.01,  
49 Florida Statutes, to read:

50 125.01 Powers and duties.—

51 (8) The legislative and governing body of a county may not  
52 regulate the design, specification, location, type, or  
53 appearance of devices that produce local renewable energy, as  
54 defined in s. 366.91(9), in a manner more stringent than  
55 required under the Florida Building Code.

56 Section 2. Present subsections (4) through (8) of section  
57 166.041, Florida Statutes, are renumbered as subsections (6)  
58 through (10), respectively, and new subsections (4) and (5) are  
59 added to that section, to read:

60 166.041 Procedures for adoption of ordinances and  
61 resolutions.—

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62       (4) The governing body of a municipality may not enact an  
63 ordinance or adopt a resolution that regulates the design,  
64 specification, location, type, or appearance of devices that  
65 produce local renewable energy, as defined in s. 366.91(9), in a  
66 manner more stringent than required under the Florida Building  
67 Code.

68       (5) The governing body of a municipality may not enact an  
69 ordinance or adopt a resolution that mandates the connection of  
70 real property to a specific electric utility service, and a  
71 person or an entity may not be required to contract with a  
72 specific electric utility service as a condition of occupying  
73 real property.

74       Section 3. Subsections (1) and (2) of section 366.02,  
75 Florida Statutes, are amended to read:

76       366.02 Definitions.—As used in this chapter:

77       (1) "Public utility" means every person, corporation,  
78 partnership, association, or other legal entity and their  
79 lessees, trustees, or receivers supplying electricity or gas  
80 (natural, manufactured, or similar gaseous substance) to or for  
81 the public within this state. However, ~~but~~ the term "public  
82 utility" does not include ~~either~~ a cooperative now or hereafter  
83 organized and existing under the Rural Electric Cooperative Law  
84 of the state; a municipality or any agency thereof; any  
85 dependent or independent special natural gas district; a local  
86 renewable energy supplier who exclusively produces or sells  
87 local renewable energy as provided in s. 366.91(9); any natural  
88 gas transmission pipeline company making only sales or  
89 transportation delivery of natural gas at wholesale and to  
90 direct industrial consumers; any entity selling or arranging for

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91 sales of natural gas which neither owns nor operates natural gas  
92 transmission or distribution facilities within the state; or a  
93 person supplying liquefied petroleum gas, in either liquid or  
94 gaseous form, irrespective of the method of distribution or  
95 delivery, or owning or operating facilities beyond the outlet of  
96 a meter through which natural gas is supplied for compression  
97 and delivery into motor vehicle fuel tanks or other  
98 transportation containers, unless such person also supplies  
99 electricity or manufactured or natural gas.

100 (2) "Electric utility" means any municipal electric  
101 utility, investor-owned electric utility, or rural electric  
102 cooperative that ~~which~~ owns, maintains, or operates an electric  
103 generation, transmission, or distribution system within the  
104 state. However, the term "electric utility" does not include a  
105 local renewable energy supplier who exclusively produces or  
106 sells local renewable energy as provided in s. 366.91(9).

107 Section 4. Subsection (2) of section 366.91, Florida  
108 Statutes, is amended, and subsections (9), (10), and (11) are  
109 added to that section, to read:

110 366.91 Renewable energy.—

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

112 (a) "Biomass" means a power source that is comprised of,  
113 but not limited to, combustible residues or gases from forest  
114 products manufacturing, waste, byproducts, or products from  
115 agricultural and orchard crops, waste or coproducts from  
116 livestock and poultry operations, waste or byproducts from food  
117 processing, urban wood waste, municipal solid waste, municipal  
118 liquid waste treatment operations, and landfill gas.

119 (b) "Customer-owned renewable generation" means an electric

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120 generating system located on a customer's premises that is  
121 primarily intended to offset part or all of the customer's  
122 electricity requirements with renewable energy.

123 (c) "Electric utility" or "utility" means an electric  
124 utility as defined in s. 366.02(2).

125 (d)~~(e)~~ "Net metering" means a metering and billing  
126 methodology established by an electric utility whereby a local  
127 renewable energy supplier or customer-owned renewable generation  
128 is allowed to offset the customer's electricity consumption on  
129 site.

130 (e)~~(d)~~ "Renewable energy" means electrical energy produced  
131 from a method that uses one or more of the following fuels or  
132 energy sources: hydrogen produced from sources other than fossil  
133 fuels, biomass, solar energy, geothermal energy, wind energy,  
134 ocean energy, and hydroelectric power. The term includes the  
135 alternative energy resource, waste heat, from sulfuric acid  
136 manufacturing operations and electrical energy produced using  
137 pipeline-quality synthetic gas produced from waste petroleum  
138 coke with carbon capture and sequestration.

139 (9) (a) As used in this subsection, the term:

140 1. "Local electric utility" means the electric utility in  
141 whose service territory a local renewable energy supplier is  
142 located.

143 2. "Local renewable energy" has the same meaning as the  
144 term "renewable energy" provided in subsection (2). For purposes  
145 of this subsection, the term includes electrical energy produced  
146 by natural gas or propane when used in conjunction with, and as  
147 backup to, renewable energy production by a local renewable  
148 energy supplier.

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149       3. "Local renewable energy supplier" means a person who  
150 generates local renewable energy from a device that is primarily  
151 intended to satisfy part or all of the electricity requirements  
152 of an end user of electrical energy who consumes electricity on  
153 the property where the device is located or who consumes  
154 electricity on property contiguous to the property where the  
155 device is located. The term also means a person who generates  
156 local renewable energy for such purposes and sells excess  
157 electricity back to the electric grid pursuant to this  
158 subsection. The maximum rated capacity of the device may not  
159 exceed 2 megawatts.

160       (b) A local renewable energy supplier may sell local  
161 renewable energy to an end user of electrical energy who  
162 consumes electricity on the property where the device is located  
163 or who consumes electricity on property contiguous to the  
164 property where the device is located.

165       (c) An end user of electrical energy who purchases local  
166 renewable energy from a local renewable energy supplier may  
167 interconnect with both the local renewable energy supplier and  
168 the local electric utility or interconnect only with the local  
169 renewable energy supplier.

170       (d) The commission shall establish the terms under which a  
171 local renewable energy supplier may interconnect with a public  
172 utility as defined in s. 366.02. Each municipal electric utility  
173 and rural electric cooperative shall establish the terms under  
174 which a local renewable energy supplier may interconnect with  
175 each such utility.

176       (e) The net metering provisions of subsections (5) and (6)  
177 that apply to customer-owned renewable generation also apply to

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178 a local renewable energy supplier who interconnects with the  
179 local electric utility. During any billing cycle, excess  
180 electricity delivered to the local electric utility's electric  
181 grid shall be credited to the local renewable energy supplier in  
182 the next billing cycle. Credits shall accumulate for 12 months  
183 and may be used to offset the renewable energy supplier's energy  
184 consumption for those 12 months. At the end of the 12-month  
185 period, the utility shall pay the supplier for any unused energy  
186 credits at the utility's full avoided cost, as defined in s.  
187 366.051, for such energy.

188 (10) (a) An electric utility that provides net metering to a  
189 customer or serves a customer who also purchases power from a  
190 local renewable energy supplier may not impose on such customer  
191 a new or an additional charge or fee that is designed to recover  
192 costs associated with providing access to or maintaining the  
193 utility's electric grid unless the charge or fee is also imposed  
194 on all other customers of the same class who do not use net  
195 metering. The commission may approve such a charge or fee if it  
196 adjusts existing customer charges commensurately to reflect any  
197 reallocation of costs from existing charges to the new or  
198 additional charge or fee.

199 (b) Notwithstanding paragraph (a), the commission may  
200 approve cost-based application fees for customers who wish to  
201 interconnect renewable energy systems with a gross power rating  
202 of more than 10 kilowatts and cost-based interconnection study  
203 fees for customers who wish to interconnect renewable energy  
204 systems with a gross power rating of more than 100 kilowatts.

205 (11) A developer, a homeowners' association, or a property  
206 owners' association that owns multiple individual contiguous

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207 parcels and supplies electricity for use exclusively by the  
208 individual parcels is not an electric utility or a public  
209 utility as those terms are defined in s. 366.02 and is not  
210 subject to regulation under this chapter. Such developer,  
211 homeowners' association, or property owners' association remains  
212 exempt from regulation by the commission and is not an electric  
213 utility or a public utility even if the individual parcels are  
214 later sold and the developer, homeowners' association, or  
215 property owners' association continues to generate electricity  
216 for those parcels only.

217 Section 5. Subsection (6) is added to section 720.3035,  
218 Florida Statutes, to read:

219 720.3035 Architectural control covenants; parcel owner  
220 improvements; rights and privileges.—

221 (6) Beginning July 1, 2016, a covenant or other published  
222 guideline or standard authorized by the declaration of covenants  
223 may not contain a provision that restricts, regulates, or  
224 requires a parcel owner to meet standards more stringent than  
225 required under the Florida Building Code for the design,  
226 specification, location, type, or appearance of local renewable  
227 energy devices that the parcel owner installs on his or her  
228 parcel.

229 Section 6. Paragraph (b) of subsection (2) of section  
230 366.92, Florida Statutes, is amended to read:

231 366.92 Florida renewable energy policy.—

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

233 (b) "Renewable energy" means renewable energy as defined in  
234 s. 366.91(2)(e) ~~366.91(2)(d)~~.

235 Section 7. Subsection (7) of section 373.236, Florida



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236 Statutes, is amended to read:

237 373.236 Duration of permits; compliance reports.—

238 (7) A permit approved for a renewable energy generating  
239 facility or the cultivation of agricultural products on lands  
240 consisting of 1,000 acres or more for use in the production of  
241 renewable energy, as defined in s. 366.91(2)(e) ~~366.91(2)(d)~~,  
242 shall be granted for a term of at least 25 years at the  
243 applicant's request based on the anticipated life of the  
244 facility if there is sufficient data to provide reasonable  
245 assurance that the conditions for permit issuance will be met  
246 for the duration of the permit; otherwise, a permit may be  
247 issued for a shorter duration that reflects the longest period  
248 for which such reasonable assurances are provided. Such a permit  
249 is subject to compliance reports under subsection (4).

250 Section 8. Paragraph (f) of subsection (3) and paragraph  
251 (b) of subsection (19) of section 403.973, Florida Statutes, are  
252 amended to read:

253 403.973 Expedited permitting; amendments to comprehensive  
254 plans.—

255 (3)

256 (f) Projects resulting in the production of biofuels  
257 cultivated on lands that are 1,000 acres or more or in the  
258 construction of a biofuel or biodiesel processing facility or a  
259 facility generating renewable energy, as defined in s.  
260 366.91(2)(e) ~~366.91(2)(d)~~, are eligible for the expedited  
261 permitting process.

262 (19) The following projects are ineligible for review under  
263 this part:

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

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

267 2. Produce electrical power, unless the production of  
268 electricity is incidental and not the primary function of the  
269 project or the electrical power is derived from a fuel source  
270 for renewable energy as defined in s. 366.91(2)(e) ~~366.91(2)(d)~~.

271 3. Extract natural resources.

272 4. Produce oil.

273 5. Construct, maintain, or operate an oil, petroleum, or  
274 sewage pipeline.

275 Section 9. Section 366.8253, Florida Statutes, is created  
276 to read:

277 366.8253 Enforcement of the Federal Clean Power Plan of  
278 2015.—The Legislature is not required to enact a law codifying a  
279 federal regulation, a guideline, or an executive order  
280 concerning the emission of carbon from electrical power plants,  
281 and the commission and the Department of Environmental  
282 Protection are not required to enforce a law, rule, policy, or  
283 plan enacted pursuant to such a federal regulation, a guideline,  
284 or an executive order if the Florida Attorney General determines  
285 that the federal regulation, guideline, or executive order  
286 conflicts with the Tenth Amendment to the United States  
287 Constitution by compelling the state to enact and enforce a  
288 federal regulatory program that is not supported by the federal  
289 legislation underlying the regulation, guideline, or executive  
290 order.

291 Section 10. This act shall take effect July 1, 2016.