

Bill No. CS for SB 888

Barcode 265040

CHAMBER ACTION

Senate

House

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The Committee on Environmental Preservation (Dockery)  
recommended the following amendment:

**Senate Amendment (with title amendment)**

On page 24, between lines 19 and 20,

insert:

Section 1. Section 366.91, Florida Statutes, is  
amended to read:

366.91 Renewable energy.--

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

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

(a) "Biomass" means a power source that is comprised

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1 of, but not limited to, combustible residues or gases from  
 2 forest products manufacturing, agricultural and orchard crops,  
 3 waste products from livestock and poultry operations and food  
 4 processing, urban wood waste, municipal solid waste, municipal  
 5 liquid waste treatment operations, and landfill gas.

6 (b) "Renewable energy" means electrical energy  
 7 produced from a method that uses one or more of the following  
 8 fuels or energy sources: hydrogen produced from sources other  
 9 than fossil fuels, biomass, solar energy, geothermal energy,  
 10 wind energy, ocean energy, and hydroelectric power. The term  
 11 includes the alternative energy resource, waste heat, from  
 12 sulfuric acid manufacturing operations.

13 (c) "Renewable Florida energy" means renewable energy  
 14 that is produced or generated in Florida.

15 (d) "Affected utility" means each public utility, as  
 16 defined in s. 366.021(1), and each municipal electric utility  
 17 and rural electric cooperative subject to the provisions of s.  
 18 366.91(4).

19 (3) ~~On or before January 1, 2006,~~ Each public utility  
 20 shall must continuously offer one or more long term a purchase  
 21 contracts to producers of renewable energy. In addition, each  
 22 public utility shall continuously offer to purchase renewable  
 23 energy under the Cogeneration-1 tariff, as available energy  
 24 tariff. A renewable energy producer shall have the right to  
 25 choose between the long-term purchase contract, or the  
 26 Cogeneration-1 tariff, as available energy tariff, or a  
 27 combination of both, based on its own operational profile. The  
 28 commission shall establish requirements relating to the  
 29 purchase of renewable capacity and energy by public utilities  
 30 from renewable energy producers and may adopt rules to  
 31 administer this section. ~~The contract shall contain payment~~

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1 ~~provisions for energy and capacity which are based upon the~~  
2 ~~utility's full avoided costs, as defined in s. 366.051;~~  
3 ~~however, capacity payments are not required if, due to the~~  
4 ~~operational characteristics of the renewable energy generator~~  
5 ~~or the anticipated peak and off-peak availability and capacity~~  
6 ~~factor of the utility's avoided unit, the producer is unlikely~~  
7 ~~to provide any capacity value to the utility or the electric~~  
8 ~~grid during the contract term. Each contract must provide a~~  
9 contract term of at least 10 years. Prudent and reasonable  
10 costs associated with a renewable energy contract shall be  
11 recovered from the ratepayers of the contracting utility,  
12 without differentiation among customer classes, through the  
13 appropriate cost-recovery clause mechanism administered by the  
14 commission.

15 (4) ~~On or before January 1, 2006,~~ Each municipal  
16 electric utility and rural electric cooperative whose annual  
17 sales, as of July 1, 1993, to retail customers were greater  
18 than 2,000 gigawatt hours must continuously offer one or more  
19 long term a purchase contracts ~~contract~~ to producers of  
20 renewable energy ~~containing payment provisions for energy and~~  
21 ~~capacity which are based upon the utility's or cooperative's~~  
22 ~~full avoided costs, as determined by the governing body of the~~  
23 ~~municipal utility or cooperative; however, capacity payments~~  
24 ~~are not required if, due to the operational characteristics of~~  
25 ~~the renewable energy generator or the anticipated peak and~~  
26 ~~off-peak availability and capacity factor of the utility's~~  
27 ~~avoided unit, the producer is unlikely to provide any capacity~~  
28 ~~value to the utility or the electric grid during the contract~~  
29 ~~term. Each contract must provide a contract term of at least~~  
30 10 years.

31 (5) A contracting producer of renewable energy must

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1 pay the actual costs of its interconnection with the  
2 transmission grid or distribution system.

3 (6) The commission shall encourage and promote the  
4 production of renewable Florida energy. Among other things,  
5 the commission shall take the following actions:

6 (a) The commission shall determine goals for the  
7 production and delivery of renewable Florida energy to Florida  
8 customers and shall use this determination to establish goals  
9 for each affected utility. The purpose of setting goals is to  
10 encourage the development of all renewable Florida energy that  
11 is or can become technically feasible while conforming to the  
12 cost effectiveness standards set forth herein.

13 (b) A goal shall be the minimum amount of renewable  
14 Florida energy that the affected utility shall deliver to its  
15 customers in a given year. A goal shall be expressed in  
16 megawatt hours per year.

17 (c) Each goal shall be established by the commission  
18 in an equitable manner. Each goal shall be based on the  
19 affected utility's pro rata share of statewide electricity  
20 sales or other factors the commission deems appropriate.

21 (d) The commission shall establish each goal as  
22 expeditiously as possible after this section is enacted into  
23 law. The commission shall reevaluate and update each goal  
24 periodically to ensure that all viable, cost effective sources  
25 of renewable Florida energy are being developed and utilized,  
26 subject to the other provisions of this section.

27 (e) The commission shall establish goals for the  
28 future, based on a planning horizon of at least five years.

29 (f) When setting goals pursuant to subsection (6), the  
30 commission shall include the electrical generating capacity of  
31 all sources of renewable florida energy that are in operation

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1 or under construction. The commission shall consider the  
2 future electrical generating capacity of all sources of  
3 renewable Florida energy that are reasonably likely to be  
4 developed, given the relevant economic, regulatory, and  
5 technological constraints affecting such sources. The  
6 commission also shall solicit and consider all relevant  
7 information from the affected utilities, the producers of  
8 renewable Florida energy, and the public.

9       (7) The commission shall grant relief from the goals  
10 in this section, if the commission finds that:

11           (a) the affected utility cannot comply because,  
12 notwithstanding the affected utility's diligent efforts to  
13 produce and purchase sufficient amounts of renewable florida  
14 energy, there is an insufficient amount of renewable Florida  
15 energy available to it;

16           (b) compliance would result in a significant  
17 disruption of electrical service or cause an undue hardship to  
18 the affected utility or its customers; or

19           (c) compliance cannot reasonably be achieved because  
20 of other factors beyond the control of the affected utility.

21       (8) The commission may establish a trading program for  
22 renewable Florida energy. The trading program shall be  
23 designed to encourage and enable affected utilities to buy and  
24 sell renewable Florida energy, or credits for such energy, and  
25 thus readily satisfy the goals established pursuant to this  
26 section.

27       (9) An affected utility may satisfy its goals pursuant  
28 to this section, by producing its own renewable Florida energy  
29 or by purchasing renewable Florida energy from others.

30           (a) When evaluating its options for obtaining  
31 renewable Florida energy, an affected utility shall consider

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1 the cost effectiveness of each option, the reliability of the  
2 energy supply system and technology, the risk mitigation that  
3 will be achieved by diversifying fuel and generation sources,  
4 the environmental attributes of each option, and other factors  
5 that the utility would normally consider when evaluating its  
6 power supply options. The affected utility also shall  
7 consider the contributions of each option to the objectives  
8 set forth in subsection (1).

9 (b) An affected utility shall use fair, equal, and  
10 consistent standards when comparing its ability to  
11 self-generate renewable Florida energy and its ability to  
12 purchase renewable Florida energy.

13 (c) An affected utility may develop standard contracts  
14 and purchasing procedures, provided such standards and  
15 procedures reasonably accommodate the economic and operating  
16 characteristics associated with the production of renewable  
17 Florida energy.

18 (d) Notwithstanding anything else contained in chapter  
19 366, an affected utility may negotiate a bilateral contract of  
20 any duration with a producer of renewable Florida energy,  
21 without conducting a competitive procurement process, if the  
22 producer is not a subsidiary of the affected utility, or an  
23 affiliate, or otherwise related to the affected utility.

24 (10) The commission shall consider the following in  
25 determining the cost effectiveness of a renewable Florida  
26 energy resource:

27 (a) Notwithstanding anything else contained in chapter  
28 366, the cost effectiveness of renewable Florida energy shall  
29 be evaluated on the basis of the economic and operating  
30 characteristics of renewable Florida energy resources and  
31 shall not be evaluated in comparison to the affected utility's

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1 avoided costs, as defined in s. 366.051.

2 (b) As a reference benchmark, the commission may  
3 consider the cost of electricity produced in Florida by a base  
4 load electrical power plant using abundant domestic fuels,  
5 such as coal and nuclear. In addition, the commission should  
6 consider the environmental and economic development benefits  
7 of renewable Florida energy.

8 (c) The commission may presume that a project or  
9 contract is not cost effective if the total cost of the  
10 renewable Florida energy is more than ten cents per kilowatt  
11 hour, levelized over the life of the project or contract. The  
12 commission may reject this resumption cases where it is  
13 demonstrated that the project or contact: is cost effective,  
14 due to site specific or other extraordinary factors; offers  
15 special benefits for the development of renewable Florida  
16 energy; or otherwise warrants approval. The commission also  
17 may periodically increase the limit of ten cents per kilowatt  
18 hour, based on prevailing prices and market conditions, such  
19 as the cost of electricity generated at base load power plants  
20 in Florida that use coal or nuclear energy for fuel.

21 (11) The commission shall review, and approve or  
22 reject, all tariffs and contracts for the purchase of  
23 renewable Florida energy, and all proposed projects for the  
24 self-generation of renewable Florida energy by affected  
25 utilities, involving more than 10 megawatts of renewable  
26 Florida energy. The commission shall determine whether the  
27 rates, terms, and conditions of the contracts and projects are  
28 fiar, just, and reasonable. Prudent and reasonable costs  
29 associated with the production or purchase of renewable  
30 Florida energy shall be recovered from the ratepayers of a  
31 public utility, without differentiation between customer

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1 classes, through the appropriate cost recovery clause  
2 mechanism, as administered by the commission.

3 (12) The commission shall establish rules and  
4 procedures for approving contracts for the production or  
5 purchase of renewable Florida energy for purposes of enabling  
6 affected utilities to qualify for the renewable energy tax  
7 credit pursuant to s. 220.192. Such rules and procedures  
8 shall ensure that the economic benefits of the tax credits  
9 shall be used by the affected utility in a manner that fully  
10 accrues to the benefit of the affected utility's ratepayers.

11 (13) The commission shall provide the Department of  
12 Revenue with a copy of each renewable energy project or  
13 contract approval granted by the commission. Each affected  
14 utility shall annually provide the commission with records  
15 identifying the amount of renewable Florida energy that the  
16 affected utility provided pursuant to an approved renewable  
17 energy project or contract.

18 (14) Each year the commission shall determine whether  
19 the affected utilities have complied with the goals  
20 established pursuant to subsection (6). If the commission  
21 determines that an affected utility has not satisfied its goal  
22 and is not entitled to relief pursuant to subsection (7), the  
23 commission shall take appropriate action to ensure that the  
24 objectives of this section are achieved.

25 (15) the commission shall establish the procedures for  
26 implementing the provisions in subsections (7)-(14), and shall  
27 take all necessary steps to ensure that these provisions are  
28 implemented in compliance with the Legislature's intent, as  
29 expressed herein. The commission may adopt rules to  
30 administer these sections.

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1 (Redesignate subsequent sections.)

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4 ===== T I T L E A M E N D M E N T =====

5 And the title is amended as follows:

6 On page 1, line 25, delete that line

7

8 and insert:

9 amending s. 366.91, F.S.; providing

10 definitions; deleting certain requirements

11 concerning payments for electrical capacity and

12 energy based on a utility's avoided cost;

13 authorizing the Florida Public Service

14 Commission to establish annual goals for the

15 delivery of renewable Florida energy by certain

16 utilities to their customers; creating

17 procedures for the establishment of goals;

18 authorizing the Commission to grant relief from

19 the goals; authorizing the Commission to

20 establish a trading program for renewable

21 Florida energy; authorizing affected utilities

22 to satisfy the goals by producing or purchasing

23 renewable Florida energy, subject to certain

24 conditions; authorizing the Commission to

25 determine the cost effectiveness of renewable

26 Florida energy resources; authorizing the

27 Commission to approve contracts for the

28 purchase of renewable Florida energy;

29 authorizing the Commission to take appropriate

30 action if the goals are not met; authorizing

31 the Commission to establish the procedures for

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1 implementation; authorizing the Commission to  
2 adopt rules; creating s. 377.801, F.S.;

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