

By Senator Bennett

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1                   A bill to be entitled  
2           An act relating to renewable energy; amending s.  
3           366.92, F.S.; revising legislative intent regarding  
4           the state's renewable energy policy; deleting  
5           provisions requiring that the Public Service  
6           Commission adopt rules for a renewable portfolio  
7           standard; requiring that the commission provide for  
8           full cost recovery for certain renewable energy  
9           projects; creating s. 366.921, F.S.; providing  
10          legislative findings; requiring that a petition filed  
11          by a provider for approval of a facility producing a  
12          Florida renewable energy resource comply with certain  
13          criteria; specifying the criteria to be considered by  
14          the commission in approving a petition for such  
15          facility; requiring that the commission's final order  
16          approving a facility include authorization for annual  
17          cost recovery; amending s. 403.503, F.S.; redefining  
18          the term "electrical power plant" for purposes of the  
19          Florida Electrical Power Plant Siting Act to exclude  
20          solar electrical generating facilities; providing an  
21          effective date.

22  
23   Be It Enacted by the Legislature of the State of Florida:

24  
25           Section 1. Section 366.92, Florida Statutes, is amended to  
26   read:

27           366.92 Florida renewable energy policy.—

28           (1) In order to stimulate the state's economy, encourage  
29   businesses to invest in clean technologies, and foster research,

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30 development, manufacturing, construction, and jobs in new and  
31 renewable energy, it is the intent of the Legislature to promote  
32 the development of renewable energy; protect the economic  
33 viability of Florida's existing renewable energy facilities;  
34 diversify the types of fuel used to generate electricity in  
35 Florida; lessen Florida's dependence on natural gas and fuel oil  
36 for the production of electricity; minimize the volatility of  
37 fuel costs; encourage investment within the state; improve  
38 environmental conditions by reducing water consumption and  
39 carbon and other greenhouse gas emissions; and, at the same  
40 time, minimize the costs of power supply to electric utilities  
41 and their customers.

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

43 (a) "Florida renewable energy resources" means renewable  
44 energy, as defined in s. 377.803, that is produced in Florida.

45 (b) "Provider" means a "utility" as defined in s.  
46 366.8255(1) (a).

47 (c) "Renewable energy" means renewable energy as defined in  
48 s. 366.91(2) (d).

49 ~~(d) "Renewable energy credit" or "REC" means a product that~~  
50 ~~represents the unbundled, separable, renewable attribute of~~  
51 ~~renewable energy produced in Florida and is equivalent to 1~~  
52 ~~megawatt-hour of electricity generated by a source of renewable~~  
53 ~~energy located in Florida.~~

54 ~~(e) "Renewable portfolio standard" or "RPS" means the~~  
55 ~~minimum percentage of total annual retail electricity sales by a~~  
56 ~~provider to consumers in Florida that shall be supplied by~~  
57 ~~renewable energy produced in Florida.~~

58 ~~(3) The commission shall adopt rules for a renewable~~

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59 ~~portfolio standard requiring each provider to supply renewable~~  
60 ~~energy to its customers directly, by procuring, or through~~  
61 ~~renewable energy credits. In developing the RPS rule, the~~  
62 ~~commission shall consult the Department of Environmental~~  
63 ~~Protection and the Florida Energy and Climate Commission. The~~  
64 ~~rule shall not be implemented until ratified by the Legislature.~~  
65 ~~The commission shall present a draft rule for legislative~~  
66 ~~consideration by February 1, 2009.~~

67 ~~(a) In developing the rule, the commission shall evaluate~~  
68 ~~the current and forecasted levelized cost in cents per kilowatt~~  
69 ~~hour through 2020 and current and forecasted installed capacity~~  
70 ~~in kilowatts for each renewable energy generation method through~~  
71 ~~2020.~~

72 ~~(b) The commission's rule:~~

73 ~~1. Shall include methods of managing the cost of compliance~~  
74 ~~with the renewable portfolio standard, whether through direct~~  
75 ~~supply or procurement of renewable power or through the purchase~~  
76 ~~of renewable energy credits. The commission shall have~~  
77 ~~rulemaking authority for providing annual cost recovery and~~  
78 ~~incentive-based adjustments to authorized rates of return on~~  
79 ~~common equity to providers to incentivize renewable energy.~~  
80 ~~Notwithstanding s. 366.91(3) and (4), upon the ratification of~~  
81 ~~the rules developed pursuant to this subsection, the commission~~  
82 ~~may approve projects and power sales agreements with renewable~~  
83 ~~power producers and the sale of renewable energy credits needed~~  
84 ~~to comply with the renewable portfolio standard. In the event of~~  
85 ~~any conflict, this subparagraph shall supersede s. 366.91(3) and~~  
86 ~~(4). However, nothing in this section shall alter the obligation~~  
87 ~~of each public utility to continuously offer a purchase contract~~

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88 ~~to producers of renewable energy.~~

89 ~~2. Shall provide for appropriate compliance measures and~~  
90 ~~the conditions under which noncompliance shall be excused due to~~  
91 ~~a determination by the commission that the supply of renewable~~  
92 ~~energy or renewable energy credits was not adequate to satisfy~~  
93 ~~the demand for such energy or that the cost of securing~~  
94 ~~renewable energy or renewable energy credits was cost~~  
95 ~~prohibitive.~~

96 ~~3. May provide added weight to energy provided by wind and~~  
97 ~~solar photovoltaic over other forms of renewable energy, whether~~  
98 ~~directly supplied or procured or indirectly obtained through the~~  
99 ~~purchase of renewable energy credits.~~

100 ~~4. Shall determine an appropriate period of time for which~~  
101 ~~renewable energy credits may be used for purposes of compliance~~  
102 ~~with the renewable portfolio standard.~~

103 ~~5. Shall provide for monitoring of compliance with and~~  
104 ~~enforcement of the requirements of this section.~~

105 ~~6. Shall ensure that energy credited toward compliance with~~  
106 ~~the requirements of this section is not credited toward any~~  
107 ~~other purpose.~~

108 ~~7. Shall include procedures to track and account for~~  
109 ~~renewable energy credits, including ownership of renewable~~  
110 ~~energy credits that are derived from a customer-owned renewable~~  
111 ~~energy facility as a result of any action by a customer of an~~  
112 ~~electric power supplier that is independent of a program~~  
113 ~~sponsored by the electric power supplier.~~

114 ~~8. Shall provide for the conditions and options for the~~  
115 ~~repeal or alteration of the rule in the event that new~~  
116 ~~provisions of federal law supplant or conflict with the rule.~~

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117 ~~(c) Beginning on April 1 of the year following final~~  
118 ~~adoption of the commission's renewable portfolio standard rule,~~  
119 ~~each provider shall submit a report to the commission describing~~  
120 ~~the steps that have been taken in the previous year and the~~  
121 ~~steps that will be taken in the future to add renewable energy~~  
122 ~~to the provider's energy supply portfolio. The report shall~~  
123 ~~state whether the provider was in compliance with the renewable~~  
124 ~~portfolio standard during the previous year and how it will~~  
125 ~~comply with the renewable portfolio standard in the upcoming~~  
126 ~~year.~~

127 (3) (a) (4) In order to promote and facilitate the  
128 development of clean industry in this state ~~demonstrate the~~  
129 ~~feasibility and viability of clean energy systems,~~ the  
130 commission shall provide for full cost recovery under the  
131 environmental cost-recovery clause of all reasonable and prudent  
132 costs incurred by a provider for:

133 1. Renewable energy projects that result in a net decrease  
134 of are zero greenhouse gas emitted emitting at the point of  
135 generation, ~~up to a total of 110 megawatts statewide,~~ and for  
136 which the provider has secured necessary land, zoning permits,  
137 and transmission rights within the state, with up to a total of  
138 300 megawatts in 2010 and up to an additional 200 megawatts  
139 annually in 2011 and 2012 as part of new renewable energy  
140 projects in addition to megawatts attributable to renewable  
141 energy projects approved by the commission for cost recovery  
142 before January 1, 2010.

143 2. Up to 15 megawatts annually for 2010 and up to 10  
144 megawatts annually for 2011 and 2012, which must be rooftop or  
145 pole-mounted solar energy applications.

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146        (b) Such costs shall be deemed reasonable and prudent for  
 147 purposes of cost recovery so long as the provider has used  
 148 reasonable and customary industry practices in the design,  
 149 procurement, and construction of the project in a cost-effective  
 150 manner appropriate to the location of the facility. The provider  
 151 shall report to the commission as part of the cost-recovery  
 152 proceedings the construction costs, in-service costs, operating  
 153 and maintenance costs, hourly energy production of the renewable  
 154 energy project, environmental benefits, and estimated fuel  
 155 savings of the facility and ~~any other information deemed~~  
 156 ~~relevant by the commission. Any provider constructing a clean~~  
 157 ~~energy facility pursuant to this section shall file for cost~~  
 158 ~~recovery no later than July 1, 2009.~~

159        (4)-(5) Each municipal electric utility and rural electric  
 160 cooperative shall develop standards for the promotion,  
 161 encouragement, and expansion of the use of renewable energy  
 162 resources and energy conservation and efficiency measures. On or  
 163 before April 1, 2009, and annually thereafter, each municipal  
 164 electric utility and electric cooperative shall submit to the  
 165 commission a report that identifies such standards.

166        (5)-(6) ~~Nothing in~~ This section does not ~~shall be construed~~  
 167 ~~to~~ impede or impair terms and conditions of existing contracts.

168        (6)-(7) The commission may adopt rules to administer ~~and~~  
 169 ~~implement the provisions of~~ this section.

170        Section 2. Section 366.921, Florida Statutes, is created to  
 171 read:

172        366.921 Renewable energy; determination of need.—

173        (1) The Legislature finds that the goals stated in s.  
 174 366.92(1) shall be accomplished by fostering the expansion and

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175 development of Florida renewable energy resources. Providers of  
176 Florida renewable energy resources must acquire commission  
177 approval before the construction, conversion, licensing, and  
178 operation of a facility producing such resources or the purchase  
179 of capacity or energy from a facility producing such resources.  
180 Any petition filed by a provider for approval of a facility  
181 producing a Florida renewable energy resource must meet the  
182 criteria specified in this section.

183 (2) Notwithstanding any provision in s. 403.519, the  
184 Legislature finds that there is a need for Florida renewable  
185 energy resources consistent with the goals stated in s.  
186 366.92(1).

187 (3) Upon the filing by a provider of a petition for  
188 approval of a facility producing a Florida renewable energy  
189 resource, the commission shall schedule a formal administrative  
190 hearing within 10 days after the filing of the petition and vote  
191 on the petition within 120 days after such filing.

192 (4) Before approving the petition, the commission shall  
193 consider whether the:

194 (a) Proposed facility employs reasonable and customary  
195 industry practices in the design, engineering, and construction  
196 of the facility producing the Florida renewable energy resource  
197 in a cost-effective manner that is appropriate to the proposed  
198 technology and location of the facility.

199 (b) Entity, including a provider, which would engineer,  
200 design, and construct the proposed facility has the requisite  
201 technical and financial qualifications, expertise, and  
202 capability.

203 (c) Entity, including a provider, which would operate the

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204 proposed facility has the requisite technical qualifications,  
205 expertise, and capability.

206 (d) Proposed production of the Florida renewable energy  
207 resource will have a positive impact on the environment,  
208 including the reduction of greenhouse gas emissions.

209 (e) Proposed production of the Florida renewable energy  
210 resource will result in local economic benefits, including job  
211 creation, for the state's economy.

212 (f) Proposed Florida renewable energy resource will enhance  
213 the fuel diversity of the provider.

214 (g) Proposed facility producing the Florida renewable  
215 energy resource will mitigate or avoid the use of water  
216 resources in the production of renewable power.

217 (5) The commission's final order approving a facility  
218 producing a Florida renewable energy resource shall include  
219 express authorization for annual cost recovery pursuant to ss.  
220 366.92 and 366.8255.

221 Section 3. Subsection (14) of section 403.503, Florida  
222 Statutes, is amended to read:

223 403.503 Definitions relating to Florida Electrical Power  
224 Plant Siting Act.—As used in this act:

225 (14) "Electrical power plant" means, for the purpose of  
226 certification, any steam ~~or solar~~ electrical generating facility  
227 using any process or fuel, including nuclear materials, except  
228 that this term does not include any steam ~~or solar~~ electrical  
229 generating facility of less than 75 megawatts in capacity unless  
230 the applicant for such a facility elects to apply for  
231 certification under this act. This term also includes the site;  
232 all associated facilities that will be owned by the applicant



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233 that are physically connected to the site; all associated  
234 facilities that are indirectly connected to the site by other  
235 proposed associated facilities that will be owned by the  
236 applicant; and associated transmission lines that will be owned  
237 by the applicant which connect the electrical power plant to an  
238 existing transmission network or rights-of-way to which the  
239 applicant intends to connect. At the applicant's option, this  
240 term may include any offsite associated facilities that will not  
241 be owned by the applicant; offsite associated facilities that  
242 are owned by the applicant but that are not directly connected  
243 to the site; any proposed terminal or intermediate substations  
244 or substation expansions connected to the associated  
245 transmission line; or new transmission lines, upgrades, or  
246 improvements of an existing transmission line on any portion of  
247 the applicant's electrical transmission system necessary to  
248 support the generation injected into the system from the  
249 proposed electrical power plant.

250 Section 4. This act shall take effect July 1, 2010.