

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Precourt offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove lines 190-686 and insert:

5 Section 3. Section 366.90, Florida Statutes, is created to  
6 read:

7 366.90 Renewable energy for electricity production.-In  
8 furtherance of the energy policy goals established in s.  
9 377.601, the Legislature finds that it is in the public interest  
10 to promote the development of renewable energy resources in the  
11 state, for purposes of electricity production, through the  
12 mechanisms established in ss. 366.91 and 366.92. The Legislature  
13 further finds that renewable energy resources have the potential  
14 to help diversify fuel types to alleviate the state's growing  
15 dependence on natural gas and other fossil fuels for the  
16 production of electricity, minimize the volatility of fuel

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17 costs, encourage investment within the state, improve  
18 environmental conditions, and make the state a leader in new and  
19 innovative technologies.

20 Section 4. Subsection (1) and paragraph (a) of subsection  
21 (2) of section 366.91, Florida Statutes, are amended, and  
22 subsections (2) through (8) of that section are renumbered as  
23 subsections (1) through (7), respectively, to read:

24 366.91 Renewable energy.—

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

33 (1)(2) As used in this section, the term:

34 (a) "Biomass" means a power source that is comprised of,  
35 but not limited to, combustible residues or gases from forest  
36 products manufacturing, waste, byproducts, or products from  
37 agricultural and orchard crops, waste or coproducts from  
38 livestock and poultry operations, waste or byproducts from food  
39 processing, recycling byproducts, urban wood waste, municipal  
40 solid waste, municipal liquid waste treatment operations, and  
41 landfill gas.

42 Section 5. Section 366.92, Florida Statutes, is amended to  
43 read:

44 366.92 Florida renewable energy policy.—

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45 ~~(1) It is the intent of the Legislature to promote the~~  
46 ~~development of renewable energy; protect the economic viability~~  
47 ~~of Florida's existing renewable energy facilities; diversify the~~  
48 ~~types of fuel used to generate electricity in Florida; lessen~~  
49 ~~Florida's dependence on natural gas and fuel oil for the~~  
50 ~~production of electricity; minimize the volatility of fuel~~  
51 ~~costs; encourage investment within the state; improve~~  
52 ~~environmental conditions; and, at the same time, minimize the~~  
53 ~~costs of power supply to electric utilities and their customers.~~

54 ~~(1)(2)~~ As used in this section, the term:

55 ~~(a) "Florida renewable energy resources" means renewable~~  
56 ~~energy, as defined in s. 377.803, that is produced in Florida.~~

57 ~~(a)(b)~~ "Provider" means a "utility" as defined in s.  
58 366.8255(1) (a) .

59 ~~(b)(c)~~ "Renewable energy" means renewable energy as  
60 defined in s. 366.91(2)(d) that is produced in the state.

61 ~~(d) "Renewable energy credit" or "REC" means a product~~  
62 ~~that represents the unbundled, separable, renewable attribute of~~  
63 ~~renewable energy produced in Florida and is equivalent to 1~~  
64 ~~megawatt-hour of electricity generated by a source of renewable~~  
65 ~~energy located in Florida.~~

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

70 ~~(3) The commission shall adopt rules for a renewable~~  
71 ~~portfolio standard requiring each provider to supply renewable~~  
72 ~~energy to its customers directly, by procuring, or through~~

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73 ~~renewable energy credits. In developing the RPS rule, the~~  
74 ~~commission shall consult the Department of Environmental~~  
75 ~~Protection and the Florida Energy and Climate Commission. The~~  
76 ~~rule shall not be implemented until ratified by the Legislature.~~  
77 ~~The commission shall present a draft rule for legislative~~  
78 ~~consideration by February 1, 2009.~~

79 ~~(a) In developing the rule, the commission shall evaluate~~  
80 ~~the current and forecasted levelized cost in cents per kilowatt~~  
81 ~~hour through 2020 and current and forecasted installed capacity~~  
82 ~~in kilowatts for each renewable energy generation method through~~  
83 ~~2020.~~

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

85 ~~1. Shall include methods of managing the cost of~~  
86 ~~compliance with the renewable portfolio standard, whether~~  
87 ~~through direct supply or procurement of renewable power or~~  
88 ~~through the purchase of renewable energy credits. The commission~~  
89 ~~shall have rulemaking authority for providing annual cost~~  
90 ~~recovery and incentive-based adjustments to authorized rates of~~  
91 ~~return on common equity to providers to incentivize renewable~~  
92 ~~energy. Notwithstanding s. 366.91(3) and (4), upon the~~  
93 ~~ratification of the rules developed pursuant to this subsection,~~  
94 ~~the commission may approve projects and power sales agreements~~  
95 ~~with renewable power producers and the sale of renewable energy~~  
96 ~~credits needed to comply with the renewable portfolio standard.~~  
97 ~~In the event of any conflict, this subparagraph shall supersede~~  
98 ~~s. 366.91(3) and (4). However, nothing in this section shall~~  
99 ~~alter the obligation of each public utility to continuously~~  
100 ~~offer a purchase contract to producers of renewable energy.~~

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101       ~~2. Shall provide for appropriate compliance measures and~~  
102 ~~the conditions under which noncompliance shall be excused due to~~  
103 ~~a determination by the commission that the supply of renewable~~  
104 ~~energy or renewable energy credits was not adequate to satisfy~~  
105 ~~the demand for such energy or that the cost of securing~~  
106 ~~renewable energy or renewable energy credits was cost~~  
107 ~~prohibitive.~~

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

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

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

117       ~~6. Shall ensure that energy credited toward compliance~~  
118 ~~with the requirements of this section is not credited toward any~~  
119 ~~other purpose.~~

120       ~~7. Shall include procedures to track and account for~~  
121 ~~renewable energy credits, including ownership of renewable~~  
122 ~~energy credits that are derived from a customer-owned renewable~~  
123 ~~energy facility as a result of any action by a customer of an~~  
124 ~~electric power supplier that is independent of a program~~  
125 ~~sponsored by the electric power supplier.~~

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

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129 ~~(c) Beginning on April 1 of the year following final~~  
130 ~~adoption of the commission's renewable portfolio standard rule,~~  
131 ~~each provider shall submit a report to the commission describing~~  
132 ~~the steps that have been taken in the previous year and the~~  
133 ~~steps that will be taken in the future to add renewable energy~~  
134 ~~to the provider's energy supply portfolio. The report shall~~  
135 ~~state whether the provider was in compliance with the renewable~~  
136 ~~portfolio standard during the previous year and how it will~~  
137 ~~comply with the renewable portfolio standard in the upcoming~~  
138 ~~year.~~

139 (2)(4) Subject to the provisions of this subsection ~~In~~  
140 ~~order to demonstrate the feasibility and viability of clean~~  
141 ~~energy systems,~~ the commission shall provide for full cost  
142 recovery under the environmental cost-recovery clause of all  
143 reasonable and prudent costs incurred by a provider to produce  
144 or purchase for renewable energy for purposes of supplying  
145 electrical energy to its retail customers ~~projects that are zero~~  
146 ~~greenhouse gas emitting at the point of generation, up to a~~  
147 ~~total of 110 megawatts statewide, and for which the provider has~~  
148 ~~secured necessary land, zoning permits, and transmission rights~~  
149 ~~within the state. Such costs shall be deemed reasonable and~~  
150 ~~prudent for purposes of cost recovery so long as the provider~~  
151 ~~has used reasonable and customary industry practices in the~~  
152 ~~design, procurement, and construction of the project in a cost-~~  
153 ~~effective manner appropriate to the location of the facility.~~  
154 ~~The provider shall report to the commission as part of the cost-~~  
155 ~~recovery proceedings the construction costs, in-service costs,~~  
156 ~~operating and maintenance costs, hourly energy production of the~~  
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157 ~~renewable energy project, and any other information deemed~~  
158 ~~relevant by the commission. Any provider constructing a clean~~  
159 ~~energy facility pursuant to this section shall file for cost~~  
160 ~~recovery no later than July 1, 2009.~~

161 (a) A provider may petition the commission for recovery of  
162 costs to produce or purchase renewable energy, subject to the  
163 cost cap in paragraph (c). The provider has sole discretion to  
164 determine the type and technology of the renewable energy  
165 resource that it intends to use. However, at least 20 percent of  
166 the total nameplate capacity for which a provider is permitted  
167 to recover costs in any calendar year under this subsection must  
168 be produced or purchased from renewable energy sources other  
169 than solar energy. No later than when a provider files a  
170 petition for cost recovery under this subsection, the provider  
171 must file with the commission a schedule of planned production  
172 and purchases for the calendar year in which cost recovery is  
173 requested. If any portion of the capacity required from nonsolar  
174 renewable energy resources is committed but, for reasons found  
175 by the commission to be beyond the control of the provider, is  
176 not available during the calendar year for which cost recovery  
177 is requested, the provider may continue to recover costs to  
178 produce or purchase renewable energy from solar energy resources  
179 if the provider continues in good faith to pursue the production  
180 or purchase of renewable energy from nonsolar resources. The  
181 provider has sole discretion to determine whether to construct  
182 new renewable energy generating facilities, convert existing  
183 fossil fuel generating facilities to renewable energy generating

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184 facilities, or contract for the purchase of renewable energy  
185 from third-party generating facilities in the state.

186 (b) In addition to the full cost recovery for such  
187 renewable energy projects, a return on equity of at least 50  
188 basis points above the top of the range of the provider's last  
189 authorized rate of return on equity approved by the commission  
190 for energy projects shall be approved and provided for such  
191 renewable energy projects if a majority value of the energy-  
192 producing components incorporated into such projects are  
193 manufactured or assembled in the state.

194 (c) For the production or purchase of renewable energy  
195 under this subsection, a provider may recover costs up to and in  
196 excess of its full avoided cost, as defined in s. 366.051 and  
197 approved by the commission, if the recovery of costs in excess  
198 of the provider's full avoided cost does not exceed, as a  
199 percentage of the provider's total revenues from the retail sale  
200 of electricity for calendar year 2009, the total cumulative  
201 amount of 2 percent in calendar years 2010 and 2011, the total  
202 cumulative amount of 3 percent in calendar year 2012, and the  
203 total cumulative amount of 4 percent in calendar year 2013 and  
204 thereafter. For purposes of cost recovery under this subsection,  
205 costs shall be computed using a methodology that, for a  
206 renewable energy generating facility, averages the revenue  
207 requirements of the facility over its economic life and, for a  
208 renewable energy purchase, averages the revenue requirements of  
209 the purchase over the life of the contract.

210 (d) Cost recovery under this subsection is limited to new  
211 construction or conversion projects for which construction is

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212 commenced on or after July 1, 2010, and to purchases made on or  
213 after that date. All renewable energy projects for which costs  
214 are approved by the commission for recovery through the  
215 environmental cost recovery clause before July 1, 2010, are not  
216 subject to or included in the calculation of the cost cap.

217 (e) The costs incurred by a provider to produce or  
218 purchase renewable energy under this subsection are deemed to be  
219 prudent for purposes of cost recovery if the provider uses  
220 reasonable and customary industry practices in the design,  
221 procurement, and construction of the project in a cost-effective  
222 manner for the type of renewable energy resource and appropriate  
223 to the location of the facility.

224 (f) Subject to the cost cap in paragraph (c), the  
225 commission shall allow a provider to recover the costs  
226 associated with the production or purchase of renewable energy  
227 under this subsection as follows:

228 1. For new renewable energy generating facilities, the  
229 commission shall allow recovery of reasonable and prudent costs,  
230 including, but not limited to, the siting, licensing,  
231 engineering, design, permitting, construction, operation, and  
232 maintenance of such facilities, including any applicable taxes  
233 and a return based on the provider's last authorized rate of  
234 return.

235 2. For conversion of existing fossil fuel generating  
236 facilities to renewable energy generating facilities, the  
237 commission shall allow recovery of reasonable and prudent  
238 conversion costs, including the costs of retirement of the  
239 fossil fuel plant that exceed any amounts accrued by the

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240 provider for such purposes through rates previously set by the  
241 commission.

242 3. For purchase of renewable energy from third-party  
243 generating facilities in the state, the commission shall allow  
244 recovery of reasonable and prudent costs associated with the  
245 purchase.

246 (g) In a proceeding to recover costs incurred under this  
247 subsection, a provider must provide the commission all cost  
248 information, hourly energy production information, and other  
249 information deemed relevant by the commission with respect to  
250 each project.

251 (h) When a provider purchases renewable energy under this  
252 subsection at a cost in excess of its full avoided cost, the  
253 seller must surrender to the provider all renewable attributes  
254 of the renewable energy purchased.

255 (i) Revenues derived from any renewable energy credit,  
256 carbon credit, or other mechanism that attributes value to the  
257 production of renewable energy, either existing or hereafter  
258 devised, received by a provider by virtue of the production or  
259 purchase of renewable energy for which cost recovery is approved  
260 under this subsection shall be shared with the provider's  
261 ratepayers such that the ratepayers are credited at least 75  
262 percent of such revenues.

263 (j) Section 403.519 does not apply to a renewable energy  
264 generating facility constructed or converted from an existing  
265 fossil fuel generating facility under this subsection, and the  
266 commission is not required to submit a report for such a project  
267 under s. 403.507(4) (a).

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268       (3) Each provider shall, in its 10-year site plan  
269 submitted to the commission pursuant to s. 186.801, provide the  
270 following information:

271       (a) The amount of renewable energy resources the provider  
272 produces or purchases.

273       (b) The amount of renewable energy resources the provider  
274 plans to produce or purchase over the 10-year planning horizon  
275 and the means by which such production or purchases will be  
276 achieved.

277       (c) A statement indicating how the production and purchase  
278 of renewable energy resources impact the provider's present and  
279 future capacity and energy needs.

280       (4)-(5) Each municipal electric utility and rural electric  
281 cooperative shall develop standards for the promotion,  
282 encouragement, and expansion of the use of renewable energy  
283 resources and energy conservation and efficiency measures. On or  
284 before April 1, 2009, and annually thereafter, each municipal  
285 electric utility and electric cooperative shall submit to the  
286 commission a report that identifies such standards.

287       (5)-(6) ~~Nothing in~~ This section and any action taken under  
288 this section may not ~~shall~~ be construed to impede or impair the  
289 terms and conditions of, or serve as a basis for renegotiating  
290 or repricing, an existing contract ~~contracts.~~

291       (6)-(7) The commission may adopt rules to administer and  
292

293 -----

294                   **T I T L E   A M E N D M E N T**

295       Remove lines 6-22 and insert:

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296 creating s. 366.90, F.S.; providing legislative intent  
297 relating to renewable energy production of electricity;  
298 amending s. 366.91, F.S.; deleting legislative intent  
299 provisions to conform to changes made by the act; revising  
300 the definition of the terms "biomass"; amending