

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

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

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 entity may not be required to contract with a specific
72 electric utility service as a condition of occupying real
73 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
 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
120 electric generating system located on a customer's premises that
121 is 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.

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 on which the device is located or who consumes
154 electricity on property contiguous to the property on which 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 on which the device is
163 located or who consumes electricity on property contiguous to
164 the property on which 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
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
189 a customer or serves a customer who also purchases power from an
190 local renewable energy supplier may not impose on such customer
191 a new or 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
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
234 in s. 366.91(2)(e) ~~366.91(2)(d)~~.

235 Section 7. Subsection (7) of section 373.236, Florida
 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
263 | under this part:

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

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, guideline, or executive order concerning the
280 | emission of carbon from electrical power plants, and the
281 | commission and the Department of Environmental Regulation are
282 | not required to enforce a law, rule, policy, or plan enacted
283 | pursuant to such a federal regulation, guideline, or executive
284 | order if the Florida Attorney General determines that the
285 | federal regulation, guideline, or executive order conflicts with
286 | the Tenth Amendment to the United States Constitution by

HB 687

2016

287 compelling the state to enact and enforce a federal regulatory
288 program that is not supported by the federal legislation
289 underlying the regulation, guideline, or executive order.

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