By Senator Brandes

A bill to be entitled
An act relating to renewable energy; amending s. 366.91, F.S.; authorizing an owner of a commercial or industrial business or a contracted third party to install, maintain, and operate a renewable energy source device on or about the structure within which the business operates or on a property owned or leased by the business; authorizing the owner or contracted third party to sell electricity generated from the device to certain businesses regardless of whether the device is located in a utility’s service territory; providing applicability; authorizing utilities to recover the full actual cost of providing services to an energy-producing business or its customers, under certain circumstances; authorizing a utility to install, maintain, and operate certain renewable energy source devices; exempting from regulation the sales of electricity produced by the devices; authorizing utilities to recover costs under certain circumstances; authorizing customers to challenge such cost recovery and receive refunds following a successful challenge; clarifying the eligibility requirements of certain energy rebate or incentive programs established by law; authorizing the Florida Public Service Commission to adopt rules; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:
Section 1. Subsection (9) is added to section 366.91, Florida Statutes, to read:

366.91 Renewable energy.—

(9)(a) An owner of a commercial or industrial business or a contracted third party may install, maintain, and operate any type of renewable energy source device on or about the structure within which the business operates or on any property owned or leased by the business. The owner of the business or the contracted third party may sell the electricity generated from the device, regardless of whether the device is located in a utility’s service territory, to a commercial or industrial business that is located immediately adjacent to the structure, within the same parcel of the structure, or on an immediately adjacent parcel. Such sales are not retail sales of electricity for purposes of this chapter and do not subject the energy-producing business to regulation under this chapter.

(b) A business entity is not required to purchase directly or indirectly, by lease or by other contractual arrangement, the electricity produced pursuant to paragraph (a).

(c) If the energy-producing business or its customers require additional related services from a utility, such as backup generation capacity or transmission services, the utility may recover the full actual cost of providing these services.

(d) A utility may enter into a contract with a commercial or industrial business to install, maintain, and operate any type of renewable energy source device on or about the structure within which the business operates and to sell the electricity generated from the device to that business or to a commercial or industrial business that is located immediately adjacent to the
structure, within the same parcel of the structure, or on an immediately adjacent parcel. Such sales are not retail sales for purposes of this chapter and are not subject to regulation under this chapter.

(e) If the commission determines that the level of reduction in electricity purchases by customers using renewable energy source devices under this section is significant enough to adversely impact the rates charged to other customers in the rate territory, the commission may approve the request from a utility to recover the utility’s costs of providing capacity, generation, and distribution of the electricity needs of all customers, including customers using a renewable energy source device. The cost recovered must be an appropriate amount of fixed costs to avoid the adverse impact and may be assessed only to customers engaged in activity under this section. The cost-recovery elements that are intended to recover the fixed costs of capacity, generation, and distribution of electricity must be based on actual costs or on projected costs, must be approved by the commission by a super majority of the voting members of the commission, and are subject to true-up. A customer may challenge the cost recovery established pursuant to this paragraph by filing with the commission a petition for a determination of whether the costs recovered are excessive. Upon a determination by the commission of any excessive cost recovery, the customer must be refunded any excess funds collected by the utility.

(f) For the purpose of any renewable energy rebate or incentive program established in law, and for application exclusively in this section, the rebate or incentive is the sole property of the owner of the renewable energy source device, and
the customer of any electricity sale pursuant to this section is
not eligible to receive the rebate or incentive unless the
customer has ownership of the renewable energy source device.

(g) The commission may adopt rules to provide guidance,
requirements, and procedures to ensure that each utility
continues to recover costs, including the costs of providing
redundant capacity.

Section 2. This act shall take effect July 1, 2015.