

CHAPTER 2022-199

Committee Substitute for Senate Bill No. 1764

An act relating to the Municipal Solid Waste-to-Energy Program; creating s. 377.814, F.S.; creating the Municipal Solid Waste-to-Energy Program within the Department of Agriculture and Consumer Services for a specified purpose; defining terms; requiring the department, subject to appropriation, to provide annual financial assistance grants to municipal solid waste-to-energy facilities that meet certain requirements; requiring the department to distribute funds to qualifying applicants based on certain criteria; requiring the department to establish a process to verify the amount of certain electric power purchases; directing the Public Service Commission to provide assistance in verifying grant eligibility; requiring the department, subject to appropriation, to provide incentive grants to municipal solid waste-to-energy facilities to assist with certain costs; specifying requirements for applying for the funding; requiring the Department of Environmental Protection to provide assistance in determining grant eligibility and establishing requirements; requiring the department to perform grant overview; prohibiting funds from being used for specified purposes; establishing priority for funding for the grants; authorizing the balance of certain unexpended funds to be carried forward for a specified number of years; requiring the Department of Agriculture and Consumer Services to adopt rules; providing an effective date.

WHEREAS, as provided in s. 366.91(1), Florida Statutes, the Legislature has determined that it is in the public interest to promote the development of renewable energy resources in this state, and

WHEREAS, under s. 366.91, Florida Statutes, municipal solid waste-to-energy facilities that use biomass as a fuel or energy source are deemed to be producing renewable energy, and

WHEREAS, municipal solid waste-to-energy facilities provide a practical and sustainable solution to reducing landfill waste, reducing volume by about 87 percent, and

WHEREAS, the Legislature recognizes the benefits that municipal solid waste-to-energy facilities contribute to the state and its local communities, and

WHEREAS, the Legislature intends to incentivize the production and sale of energy from municipal solid waste-to-energy facilities through grant programs, NOW, THEREFORE,

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

Section 1. Section 377.814, Florida Statutes, is created to read:

377.814 Municipal Solid Waste-to-Energy Program.—

(1) CREATION AND PURPOSE OF THE PROGRAM.—The Municipal Solid Waste-to-Energy Program is created within the department. The purpose of the program is to provide financial assistance grants and incentive grants to municipal solid waste-to-energy facilities to incentivize the production and sale of energy from municipal solid waste-to-energy facilities while also reducing the amount of waste that would otherwise be disposed of in a landfill.

(2) DEFINITIONS.—For purposes of this section, the term:

(a) “Department” means the Department of Agriculture and Consumer Services.

(b) “Municipal solid waste-to-energy facility” means a publicly owned facility that uses an enclosed device using controlled combustion to thermally break down solid waste to an ash residue that contains little or no combustible material and that produces electricity, steam, or other energy as a result. The term does not include facilities that primarily burn fuels other than solid waste even if such facilities also burn some solid waste as a fuel supplement. The term does not include facilities that primarily burn vegetative, agricultural, or silvicultural wastes, bagasse, clean dry wood, methane or other landfill gas, wood fuel derived from construction or demolition debris, or waste tires, alone or in combination with fossil fuels.

(3) FINANCIAL ASSISTANCE GRANT PROGRAM.—The department, subject to appropriation, shall provide annual financial assistance grants to municipal solid waste-to-energy facilities that entered into a power purchase agreement with an electric utility before January 1, 2022, which included capacity and energy payments, and the owner of the municipal solid waste-to-energy facility has entered into a new or amended power purchase agreement that either no longer includes capacity payments or includes capacity and energy payments in an amount less than the total of the capacity and energy payments the municipal solid waste-to-energy facility received under the power purchase agreement entered into before January 1, 2022.

(a) To apply for an annual financial assistance grant, the owner of a municipal solid waste-to-energy facility must submit an application to the department. The application must include the name of the applicant’s municipal solid waste-to-energy facility, the name of the utility purchasing the electric power from the municipal solid waste-to-energy facility, the total capacity and energy payment the municipal solid waste-to-energy facility received during the last year of the power purchase agreement entered into before January 1, 2022, and the amount of energy delivered to and the total amount paid for such power by an electric utility pursuant to a new or amended power purchase agreement during the preceding state fiscal year.

(b) The department shall distribute funds, subject to appropriation, to each qualifying applicant at a rate of 2 cents per kilowatt-hour of electric power purchased by an electric utility during the preceding state fiscal year,

not to exceed the difference between the total capacity and energy payment the municipal solid waste-to-energy facility received during the last year of the power purchase agreement entered into before January 1, 2022, and the total of the capacity and energy payment the municipal solid waste-to-energy facility received under a new or amended power purchase agreement during the preceding state fiscal year. To the extent that funds are not available to provide financial assistance to each qualifying applicant for every qualifying kilowatt-hour purchased, the department shall prorate the funds on an equitable basis.

(c) The department shall establish a process to verify the amount of electric power purchased from a municipal solid waste-to-energy facility by an electric utility during each preceding state fiscal year. The Public Service Commission shall provide assistance to the department to help verify the information provided pursuant to paragraph (a).

(4) INCENTIVE GRANT PROGRAM.—The department, subject to appropriation, shall provide incentive grants to municipal solid waste-to-energy facilities to assist with the planning and designing for constructing, upgrading, or expanding a municipal solid waste-to-energy facility, including necessary legal or administrative expenses.

(a) To qualify for an incentive grant, the owner of a municipal solid waste-to-energy facility must apply to the department for funding; provide matching funds on a dollar-for-dollar basis; and demonstrate that the project is cost-effective, permittable, and implementable and complies with s. 403.7061.

(b) The Department of Environmental Protection shall provide assistance to the department in determining the eligibility of grant applications and establishing requirements to ensure the long-term and efficient operation and maintenance of facilities constructed or expanded under an incentive grant.

(c) The department shall perform adequate overview of each grant application and grant award, including technical review, regular inspections, disbursement approvals, and auditing, to implement this section.

(d) Funds awarded under the incentive grant program may not be used to promote, establish, or convert a residential collection system that does not provide for the separate collection of residential solid waste from recovered materials as defined in s. 403.703.

(e) The department shall require the termination or repayment of incentive grant funds if the department determines that program requirements are not being met.

(5) FUNDING.—

(a) Funds appropriated for the Municipal Solid Waste-to-Energy Program must first be used for financial assistance grants. Any funds remaining

in a state fiscal year after disbursement to all qualifying applicants may be used to fund the incentive grant program.

(b) Funds awarded under the grant programs set forth in this section may not be used to support, subsidize, or enable the sale of electric power generated by a municipal solid waste-to-energy facility to any small electric utility eligible to petition the commission under s. 366.06(4).

(c) Notwithstanding s. 216.301 and pursuant to s. 216.351, funds allocated for the purpose of this section which are not disbursed by June 30 of the fiscal year in which the funds are allocated may be carried forward for up to 5 years after the effective date of the original appropriation.

(6) RULES.—The department shall adopt rules to implement and administer this section, including establishing grant application processes for financial assistance grants and incentive grants. The rules shall include application deadlines and establish the supporting documentation necessary to be provided to the department. In adopting rules relating to the financial assistance grant program, the department shall consult the Public Service Commission. In adopting rules for the incentive grant program, the department shall consult the Department of Environmental Protection.

Section 2. This act shall take effect July 1, 2022.

Approved by the Governor June 20, 2022.

Filed in Office Secretary of State June 20, 2022.