States' Biofuels Statutes

STATE OF FLORIDA

This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit States' Biofuels Statutory Citations. These statutes are placed in reverse chronological order using the date of the most recent amendment to the statute. Many biofuels laws were enacted as amendments to previously passed laws.

Current through the 2013 Legislative Session of the Florida General Assembly.

403.973. Expedited permitting; amendments to comprehensive plans

(1) It is the intent of the Legislature to encourage and facilitate the location and expansion of those types of economic development projects which offer job creation and high wages, strengthen and diversify the state's economy, and have been thoughtfully planned to take into consideration the protection of the state's environment. It is also the intent of the Legislature to provide for an expedited permitting and comprehensive plan amendment process for such projects.

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

(a) "Duly noticed" means publication in a newspaper of general circulation in the municipality or county with jurisdiction. The notice shall appear on at least 2 separate days, one of which shall be at least 7 days before the meeting. The notice shall state the date, time, and place of the meeting scheduled to discuss or enact the memorandum of agreement, and the places within the municipality or county where such proposed memorandum of agreement may be inspected by the public. The notice must be one-eighth of a page in size and must be published in a portion of the paper other than the legal notices section. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the memorandum of agreement.

(b) "Jobs" means permanent, full-time equivalent positions not including construction jobs.

(c) "Permit applications" means state permits and licenses, and at the option of a participating local government, local development permits or orders.

(d) "Secretary" means the Secretary of Environmental Protection or his or her designee.

(3)(a) The secretary shall direct the creation of regional permit action teams for the purpose of expediting review of permit applications and local comprehensive plan amendments submitted by:

1. Businesses creating at least 50 jobs or a commercial or industrial development project that will be occupied by businesses that would individually or collectively create at least 50 jobs; or

2. Businesses creating at least 25 jobs if the project is located in an enterprise zone, or in a county having a population of fewer than 75,000 or in a county having a population of fewer than 125,000 which is contiguous to a county having a population of fewer than 75,000, as determined by the most recent decennial census, residing in incorporated and unincorporated areas of the county.

(b) On a case-by-case basis and at the request of a county or municipal government, the Department of Economic Opportunity may certify as eligible for expedited review a project not meeting the minimum job creation thresholds but creating a minimum of 10 jobs. The recommendation from the governing body of the county or municipality in which the project may be located is required in order for the Department of Economic Opportunity to certify that any project is eligible for expedited review under this paragraph. When considering projects that do not meet the minimum job creation thresholds but that are recommended by the governing body in which the project may be located, the Department of Economic Opportunity shall consider economic impact factors that include, but are not limited to:

1. The proposed wage and skill levels relative to those existing in the area in which the project may be located;

2. The project's potential to diversify and strengthen the area's economy;

3. The amount of capital investment; and

4. The number of jobs that will be made available for persons served by the welfare transition program.

(c) At the request of a county or municipal government, the Department of Economic Opportunity or a Quick Permitting County may certify projects located in counties where the ratio of new jobs per participant in the welfare transition program, as determined by Workforce Florida, Inc., is less than one or otherwise critical, as eligible for the expedited permitting process. Such projects must meet the numerical job creation criteria of this subsection, but the jobs created by the project do not have to be high-wage jobs that diversify the state's economy.

(d) Projects located in a designated brownfield area are eligible for the expedited permitting process.

(e) Projects that are part of the state-of-the-art biomedical research institution and campus to be established in this state by the grantee under s. 288.955 are eligible for the expedited permitting process, if the projects are designated as part of the institution or campus by the board of county commissioners of the county in which the institution and campus are established.

(f) Projects resulting in the production of biofuels cultivated on lands that are 1,000 acres or more or in the construction of a biofuel or biodiesel processing facility or a facility generating renewable energy, as defined in s. 366.91(2)(d), are eligible for the expedited permitting process.

(g) Projects for natural gas storage facilities that are permitted under chapter 377 are eligible for the expedited permitting process.

(h) Projects to construct interstate natural gas pipelines subject to certification by the Federal Energy Regulatory Commission are eligible for the expedited permitting process.

(4) The regional teams shall be established through the execution of a project-specific memorandum of agreement developed and executed by the applicant and the secretary, with input solicited from the respective heads of the Department of Transportation and its district offices, the Department of Agriculture and Consumer Services, the Fish and Wildlife Conservation Commission, appropriate regional planning councils, appropriate water management districts, and voluntarily participating municipalities and counties. The memorandum of agreement should also accommodate participation in this expedited process by other local governments and federal agencies as circumstances warrant.

(5) In order to facilitate local government's option to participate in this expedited review process, the secretary shall, in cooperation with local governments and participating state agencies, create a standard form memorandum of agreement. The standard form of the memorandum of agreement shall be used only if the local government participates in the expedited review process. In the absence of local government participation, only the project-specific memorandum of agreement executed pursuant to subsection (4) applies. A local government shall hold a duly noticed public workshop to review and explain to the public the expedited permitting process and the terms and conditions of the standard form memorandum of agreement.

(6) The local government shall hold a duly noticed public hearing to execute a memorandum of agreement for each qualified project. Notwithstanding any other provision of law, and at the option of the local government, the workshop provided for in subsection (5) may be conducted on the same date as the public hearing held under this subsection. The memorandum of agreement that a local government signs shall include a provision identifying necessary local government procedures and time limits that will be modified to allow for the local government decision on the project within 90 days. The memorandum of agreement applies to projects, on a case-by-case basis, that qualify for special review and approval as specified in this section. The memorandum of agreement must make it clear that this expedited permitting and review process does not modify, qualify, or otherwise alter existing local government nonprocedural standards for permit applications, unless expressly authorized by law.

(7) Appeals of local government comprehensive plan approvals for a project shall be pursuant to the summary hearing provisions of s. 120.574, pursuant to subsection (14), and consolidated with the challenge of any applicable state agency actions.

(8) Each memorandum of agreement shall include a process for final agency action on permit applications and local comprehensive plan amendment approvals within 90 days after receipt of a completed application, unless the applicant agrees to a longer time period or the secretary determines that unforeseen or uncontrollable circumstances preclude final agency action within the 90-day timeframe. Permit applications governed by federally delegated or approved permitting programs whose requirements would prohibit or be inconsistent with the 90-day timeframe are exempt from this provision, but must be processed by the agency with federally delegated or approved program responsibility as expeditiously as possible.

(9) The secretary shall inform the Legislature by October 1 of each year which agencies have not entered

into or implemented an agreement and identify any barriers to achieving success of the program.

(10) The memoranda of agreement may provide for the waiver or modification of procedural rules prescribing forms, fees, procedures, or time limits for the review or processing of permit applications under the jurisdiction of those agencies that are members of the regional permit action team. Notwithstanding any other provision of law to the contrary, a memorandum of agreement must to the extent feasible provide for proceedings and hearings otherwise held separately to be combined into one proceeding or held jointly and at one location. Such waivers or modifications are not authorized for permit applications governed by federally delegated or approved permitting programs, the requirements of which would prohibit, or be inconsistent with, such a waiver or modification.

(11) The memoranda of agreement shall include guidelines to be used in working with state, regional, and local permitting authorities. Guidelines may include, but are not limited to, the following:

(a) A central contact point for filing permit applications and local comprehensive plan amendments and for obtaining information on permit and local comprehensive plan amendment requirements.

(b) Identification of the individual or individuals within each respective agency who will be responsible for processing the expedited permit application or local comprehensive plan amendment for that agency.

(c) A mandatory preapplication review process to reduce permitting conflicts by providing guidance to applicants regarding the permits needed from each agency and governmental entity, site planning and development, site suitability and limitations, facility design, and steps the applicant can take to ensure expeditious permit application and local comprehensive plan amendment review. As a part of this process, the first interagency meeting to discuss a project shall be held within 14 days after the secretary's determination that the project is eligible for expedited review. Subsequent interagency meetings may be scheduled to accommodate the needs of participating local governments that are unable to meet public notice requirements for executing a memorandum of agreement within this timeframe. This accommodation may not exceed 45 days from the secretary's determination that the project is eligible for expedited review.

(d) The preparation of a single coordinated project description form and checklist and an agreement by state and regional agencies to reduce the burden on an applicant to provide duplicate information to multiple agencies.

(e) Establishment of a process for the adoption and review of any comprehensive plan amendment needed by any certified project within 90 days after the submission of an application for a comprehensive plan amendment. However, the memorandum of agreement may not prevent affected persons as defined in s. 163.3184 from appealing or participating in this expedited plan amendment process and any review or appeals of decisions made under this paragraph.

(f) Additional incentives for an applicant who proposes a project that provides a net ecosystem benefit.

(12) The applicant, the regional permit action team, and participating local governments may agree to incorporate into a single document the permits, licenses, and approvals that are obtained through the expedited permit process. This consolidated permit is subject to the summary hearing provisions set forth

in subsection (14).

(13) Notwithstanding any other provisions of law, projects qualified under this section are not subject to interstate highway level-of-service standards adopted by the Department of Transportation for concurrency purposes. The memorandum of agreement specified in subsection (5) must include a process by which the applicant will be assessed a fair share of the cost of mitigating the project's significant traffic impacts, as defined in chapter 380 and related rules. The agreement must also specify whether the significant traffic impacts on the interstate system will be mitigated through the implementation of a project or payment of funds to the Department of Transportation. Where funds are paid, the Department of Transportation must include in the 5-year work program transportation projects or project phases, in an amount equal to the funds received, to mitigate the traffic impacts associated with the proposed project.

(14)(a) Challenges to state agency action in the expedited permitting process for projects processed under this section are subject to the summary hearing provisions of s. 120.574, except that the administrative law judge's decision, as provided in s. 120.574(2)(f), shall be in the form of a recommended order and does not constitute the final action of the state agency. In those proceedings where the action of only one agency of the state other than the Department of Environmental Protection is challenged, the agency of the state shall issue the final order within 45 working days after receipt of the administrative law judge's recommended order, and the recommended order shall inform the parties of their right to file exceptions or responses to the recommended order in accordance with the uniform rules of procedure pursuant to s. 120.54. In those proceedings where the actions of more than one agency of the state are challenged, the Governor shall issue the final order within 45 working days after receipt of the administrative law judge's recommended order, and the recommended order shall inform the parties of their right to file exceptions or responses to the recommended order in accordance with the uniform rules of procedure pursuant to s. 120.54. For the issuance of department licenses required under any federally delegated or approved permit program, the department, and not the Governor, shall enter the final order. The participating agencies of the state may opt at the preliminary hearing conference to allow the administrative law judge's decision to constitute the final agency action.

(b) Projects identified in paragraphs (3)(f)-(h) or challenges to state agency action in the expedited permitting process for establishment of a state-of-the-art biomedical research institution and campus in this state by the grantee under s. 288.955 are subject to the same requirements as challenges brought under paragraph (a), except that, notwithstanding s. 120.574, summary proceedings must be conducted within 30 days after a party files the motion for summary hearing, regardless of whether the parties agree to the summary proceeding.

(15) The Department of Economic Opportunity, working with the agencies providing cooperative assistance and input regarding the memoranda of agreement, shall review sites proposed for the location of facilities that the Department of Economic Opportunity has certified to be eligible for the Innovation Incentive Program under s. 288.1089. Within 20 days after the request for the review by the Department of Economic Opportunity, the agencies shall provide to the Department of Economic Opportunity a statement as to each site's necessary permits under local, state, and federal law and an identification of significant permitting issues, which if unresolved, may result in the denial of an agency permit or approval or any significant delay caused by the permitting process.

(16) This expedited permitting process shall not modify, qualify, or otherwise alter existing agency

nonprocedural standards for permit applications or local comprehensive plan amendments, unless expressly authorized by law. If it is determined that the applicant is not eligible to use this process, the applicant may apply for permitting of the project through the normal permitting processes.

(17) The Department of Economic Opportunity shall be responsible for certifying a business as eligible for undergoing expedited review under this section. Enterprise Florida, Inc., a county or municipal government, or the Rural Economic Development Initiative may recommend to the Department of Economic Opportunity that a project meeting the minimum job creation threshold undergo expedited review.

(18) The Department of Economic Opportunity, working with the Rural Economic Development Initiative, shall provide technical assistance in preparing permit applications and local comprehensive plan amendments for counties having a population of fewer than 75,000 residents, or counties having fewer than 125,000 residents which are contiguous to counties having fewer than 75,000 residents. Additional assistance may include, but not be limited to, guidance in land development regulations and permitting processes, working cooperatively with state, regional, and local entities to identify areas within these counties which may be suitable or adaptable for preclearance review of specified types of land uses and other activities requiring permits.

(19) The following projects are ineligible for review under this part:

(a) A project funded and operated by a local government, as defined in s. 377.709, and located within that government's jurisdiction.

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

1. Effect the final disposal of solid waste, biomedical waste, or hazardous waste in this state.

2. Produce electrical power, unless the production of electricity is incidental and not the primary function of the project or the electrical power is derived from a fuel source for renewable energy as defined in s. 366.91(2)(d).

3. Extract natural resources.

4. Produce oil.

5. Construct, maintain, or operate an oil, petroleum, or sewage pipeline.

Credits: Laws 1996, c. 96-320, § 148; Laws 1997, c. 97-28, § 2. Amended by Laws 1999, c. 99-244, § 9, eff. July 1, 1999; Laws 1999, c. 99-245, § 221, eff. July 1, 1999; Laws 2000, c. 2000-165, § 91, eff. July 1, 2000; Laws 2000, c. 2000-317, § 14, eff. July 1, 2000; Laws 2003, c. 2003-420, § 3, eff. Nov. 3, 2003; Laws 2006, c. 2006-55, § 6, eff. July 1, 2006; Laws 2007, c. 2007-105, § 23, eff. July 1, 2007; Laws 2008, c. 2008-4, § 110, eff. July 1, 2008; Laws 2010, c. 2010-205, § 62, eff. July 1, 2010; Laws 2011, c. 2011-139, § 63, eff. June 2, 2011; Laws 2011, c. 2011-142, § 296, eff. July 1, 2011; Laws 2012, c. 2012-205, § 21, eff. July 1, 2012; Laws 2013, c. 2013-92, § 23, eff. July 1, 2013; Laws 2013, c. 2013-205, § 24, eff. July 1, 2013.