

PCB ENUS 12-02

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to energy; amending s. 186.801, F.S.;
 3 requiring utilities' 10-year site plans to address
 4 existing and proposed renewable energy production and
 5 purchases; amending s. 220.08, F.S.; providing
 6 definitions for the terms "biodiesel," "ethanol," and
 7 "renewable fuel"; providing for tax exemptions in the
 8 form of a rebate for the sale or use of certain
 9 equipment, machinery, and other materials for
 10 renewable energy technologies; providing eligibility
 11 requirements and tax credit limits; authorizing the
 12 Department of Revenue and the Department of
 13 Agriculture and Consumer Services to adopt rules;
 14 directing the Department of Agriculture and Consumer
 15 Services to determine and publish certain information
 16 relating to exemptions; providing for expiration of
 17 the exemption; amending s. 220.192, F.S.; providing
 18 definitions; reestablishing a corporate tax credit for
 19 certain costs related to renewable energy
 20 technologies; providing eligibility requirements and
 21 credit limits; providing rule-making authority to the
 22 Department of Revenue and the Department of
 23 Agriculture and Consumer Services; directing the
 24 Department of Agriculture and Consumer Services to
 25 determine and publish certain information; providing
 26 for expiration of the tax credit; amending s. 220.193,
 27 F.S.; reestablishing a corporate tax credit for
 28 renewable energy production; providing definitions;

PCB ENUS 12-02

ORIGINAL

YEAR

29 providing a tax credit for the production and sale of
 30 renewable energy; providing for the use and transfer
 31 of the tax credit; providing rule-making authority to
 32 the Department of Revenue; providing for expiration of
 33 the tax credit; amending s. 255.257, F.S.; directing
 34 the Department of Management Services in coordination
 35 with the Department of Agriculture and Consumer
 36 Services to further develop the state energy
 37 management plan; amending s. 288.106, F.S.; further
 38 clarifying the definition of "target industry
 39 business" for purposes of the tax refund program for
 40 qualified target industry businesses; amending s.
 41 20.60, F.S.; requiring the Department of Economic
 42 Opportunity to analyze and evaluate economic benefits
 43 for certain renewable energy projects; amending s.
 44 366.92, F.S.; providing definitions; authorizing a
 45 utility to petition the commission to determine that a
 46 proposed renewable energy facility is in the public
 47 interest; providing a standard of review; providing
 48 for cost recovery for reasonable and prudent cost
 49 incurred by a utility for a financing project;
 50 requiring the Public Service Commission to adopt rules
 51 to establish a public interest determination process
 52 for renewable energy projects; establishing procedural
 53 guidelines for public interest determination; creating
 54 s. 366.94, F.S., relating to electric vehicle charging
 55 stations; providing legislative intent; providing that
 56 the rates, terms and conditions of electric vehicle

PCB ENUS 12-02

ORIGINAL

YEAR

57 | charging services by a non-utility are not subject to
 58 | regulation by the Public Service Commission; providing
 59 | rule-making authority to the Department of Agriculture
 60 | and Consumer Services; prohibiting parking in spaces
 61 | specifically designated for charging an electric
 62 | vehicle under specific circumstances; providing
 63 | penalties; amending s. 403.519, F.S.; requiring the
 64 | Public Service Commission to make a need determination
 65 | for electrical power to place greater emphasis on fuel
 66 | diversity; amending s. 581.083, F.S.; prohibiting the
 67 | cultivation of certain algae in plantings greater in
 68 | size than 2 contiguous acres; providing exceptions;
 69 | providing for exemption from special permitting
 70 | requirements by rule; revising certain bonding
 71 | requirements; amending s. 20.121, F.S.; establishing
 72 | the Office of Public Counsel within the Financial
 73 | Services Commission; amending s. 350.061, F.S.;
 74 | providing for appointment and removal of the Public
 75 | Counsel by the Financial Services Commission; amending
 76 | s. 350.0613, F.S.; establishing the authority of the
 77 | Public Counsel to employ personnel, set compensation,
 78 | retain experts, and prepare a budget; amending s.
 79 | 350.0614, F.S.; authorizing the Financial Services
 80 | Commission to set the salary of the Public Counsel and
 81 | allocate salaries and expenses for the office;
 82 | providing for a type two transfer of the Office of
 83 | Public Counsel from the legislature to the Financial
 84 | Services Commission; requiring the Department of

PCB ENUS 12-02

ORIGINAL

YEAR

85 | Agriculture and Consumer Services to conduct a
 86 | statewide forest inventory analysis; requiring the
 87 | Department of Agriculture and Consumer Services, in
 88 | consultation with other state agencies, to develop a
 89 | clearinghouse of information regarding cost savings
 90 | associated with energy efficiency and conservation
 91 | measures; requiring such information to be posted on
 92 | its website; directing the Public Service Commission
 93 | to conduct a study on the potential effects of
 94 | electric vehicle charging stations on both energy
 95 | consumption and the electric grid; requiring the
 96 | Public Service Commission, in consultation with the
 97 | Department of Agriculture and Consumer Services, to
 98 | contract for an independent evaluation of the
 99 | effectiveness of the Florida Energy Efficiency and
 100 | Conservation Act; providing an effective date.

101 |
 102 | Be It Enacted by the Legislature of the State of Florida:
 103 |

104 | Section 1. Subsection (2) of section 186.801, Florida
 105 | Statutes, is amended to read:

106 | 186.801 Ten-year site plans.—

107 | (2) Within 9 months after the receipt of the proposed
 108 | plan, the commission shall make a preliminary study of such plan
 109 | and classify it as "suitable" or "unsuitable." The commission
 110 | may suggest alternatives to the plan. All findings of the
 111 | commission shall be made available to the Department of
 112 | Environmental Protection for its consideration at any subsequent

PCB ENUS 12-02

ORIGINAL

YEAR

113 | electrical power plant site certification proceedings. It is
 114 | recognized that 10-year site plans submitted by an electric
 115 | utility are tentative information for planning purposes only and
 116 | may be amended at any time at the discretion of the utility upon
 117 | written notification to the commission. A complete application
 118 | for certification of an electrical power plant site under
 119 | chapter 403, when such site is not designated in the current 10-
 120 | year site plan of the applicant, shall constitute an amendment
 121 | to the 10-year site plan. In its preliminary study of each 10-
 122 | year site plan, the commission shall consider such plan as a
 123 | planning document and shall review:

124 | (a) The need, including the need as determined by the
 125 | commission, for electrical power in the area to be served.

126 | (b) The effect on fuel diversity within the state.

127 | (c) The anticipated environmental impact of each proposed
 128 | electrical power plant site.

129 | (d) Possible alternatives to the proposed plan.

130 | (e) The views of appropriate local, state, and federal
 131 | agencies, including the views of the appropriate water
 132 | management district as to the availability of water and its
 133 | recommendation as to the use by the proposed plant of salt water
 134 | or fresh water for cooling purposes.

135 | (f) The extent to which the plan is consistent with the
 136 | state comprehensive plan.

137 | (g) The plan with respect to the information of the state
 138 | on energy availability and consumption.

139 | (h) The amount of renewable energy resources the utility
 140 | produces or purchases.

PCB ENUS 12-02

ORIGINAL

YEAR

141 (i) The amount of renewable energy resources the utility
 142 plans to produce or purchase over the 10-year planning horizon
 143 and the means by which such production or purchases will be
 144 achieved.

145 (j) The utility's indication of how the production and
 146 purchase of renewable energy resources affect the utility's
 147 present and future capacity and energy needs.

148 Section 2. Paragraph (hhh) is added to subsection (7) of
 149 section 212.08, Florida Statutes, to read:

150 212.08 Sales, rental, use, consumption, distribution, and
 151 storage tax; specified exemptions.—The sale at retail, the
 152 rental, the use, the consumption, the distribution, and the
 153 storage to be used or consumed in this state of the following
 154 are hereby specifically exempt from the tax imposed by this
 155 chapter.

156 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
 157 entity by this chapter do not inure to any transaction that is
 158 otherwise taxable under this chapter when payment is made by a
 159 representative or employee of the entity by any means,
 160 including, but not limited to, cash, check, or credit card, even
 161 when that representative or employee is subsequently reimbursed
 162 by the entity. In addition, exemptions provided to any entity by
 163 this subsection do not inure to any transaction that is
 164 otherwise taxable under this chapter unless the entity has
 165 obtained a sales tax exemption certificate from the department
 166 or the entity obtains or provides other documentation as
 167 required by the department. Eligible purchases or leases made
 168 with such a certificate must be in strict compliance with this

PCB ENUS 12-02

ORIGINAL

YEAR

169 subsection and departmental rules, and any person who makes an
 170 exempt purchase with a certificate that is not in strict
 171 compliance with this subsection and the rules is liable for and
 172 shall pay the tax. The department may adopt rules to administer
 173 this subsection.

174 (hhh) Equipment, machinery, and other materials for
 175 renewable energy technologies.-

176 1. As used in this paragraph, the term:

177 a. "Biodiesel" means the mono-alkyl esters of long-chain
 178 fatty acids derived from plant or animal matter for use as a
 179 source of energy and meeting the specifications for biodiesel
 180 and biodiesel blends with petroleum products as adopted by rule
 181 of the Department of Agriculture and Consumer Services.

182 Biodiesel may refer to biodiesel blends designated BXX, where XX
 183 represents the volume percentage of biodiesel fuel in the blend.

184 b. "Ethanol" means an anhydrous denatured alcohol produced
 185 by the conversion of carbohydrates meeting the specifications
 186 for fuel ethanol and fuel ethanol blends with petroleum products
 187 as adopted by rule of the Department of Agriculture and Consumer
 188 Services. Ethanol may refer to fuel ethanol blends designated
 189 EXX, where XX represents the volume percentage of fuel ethanol
 190 in the blend.

191 c. "Renewable fuel" means a fuel produced from biomass that
 192 is used to replace or reduce the quantity of fossil fuel present
 193 in motor fuel or diesel fuel. "Biomass" means biomass as defined
 194 in s. 366.91, "motor fuel" means motor fuel as defined in s.
 195 206.01, and "diesel fuel" means diesel fuel as defined in s.
 196 206.86.

PCB ENUS 12-02

ORIGINAL

YEAR

197 2. The sale or use of the following in the state is exempt
 198 from the tax imposed by this chapter: Materials used in the
 199 distribution of biodiesel (B10-B100), ethanol (E10-E100), and
 200 other renewable fuels, including fueling infrastructure,
 201 transportation, and storage, up to a limit of \$1 million in tax
 202 each state fiscal year for all taxpayers. Gasoline fueling
 203 station pump retrofits for biodiesel (B10-B100), ethanol (E10-
 204 E100), and other renewable fuel distribution qualify for the
 205 exemption provided in this section.

206 3. The Department of Agriculture and Consumer Services
 207 shall provide to the Department of Revenue a list of items
 208 eligible for the exemption provided in this paragraph.

209 4.a. The exemption provided in this paragraph shall be
 210 available to a purchaser only through a refund of previously
 211 paid taxes. An eligible item is subject to refund one time. A
 212 person who has received a refund on an eligible item shall
 213 notify the next purchaser of the item that such item is no
 214 longer eligible for a refund of paid taxes. This notification
 215 shall be provided to each subsequent purchaser on the sales
 216 invoice or other proof of purchase.

217 b. To be eligible to receive the exemption provided in this
 218 paragraph, a purchaser shall file an application with the
 219 Department of Agriculture and Consumer Services. The application
 220 shall be developed by the Department of Agriculture and Consumer
 221 Services, in consultation with the Department of Revenue, and
 222 shall require:

223 (I) The name and address of the person claiming the refund.

PCB ENUS 12-02

ORIGINAL

YEAR

224 (II) A specific description of the purchase for which a
 225 refund is sought, including, when applicable, a serial number or
 226 other permanent identification number.

227 (III) The sales invoice or other proof of purchase showing
 228 the amount of sales tax paid, the date of purchase, and the name
 229 and address of the sales tax dealer from whom the property was
 230 purchased.

231 (IV) A sworn statement that the information provided is
 232 accurate and that the requirements of this paragraph have been
 233 met.

234 c. Within 30 days after receipt of an application, the
 235 Department of Agriculture and Consumer Services shall review the
 236 application and shall notify the applicant of any deficiencies.
 237 Upon receipt of a completed application, the Department of
 238 Agriculture and Consumer Services shall evaluate the application
 239 for exemption and issue a written certification that the
 240 applicant is eligible for a refund or issue a written denial of
 241 such certification. The Department of Agriculture and Consumer
 242 Services shall provide the Department of Revenue with a copy of
 243 each certification issued upon approval of an application.

244 d. Each certified applicant shall be responsible for
 245 applying for the refund and forwarding the certification that
 246 the applicant is eligible to the Department of Revenue within 6
 247 months after certification by the Department of Agriculture and
 248 Consumer Services.

249 e. A refund approved pursuant to this paragraph shall be
 250 made within 30 days after formal approval by the Department of
 251 Revenue.

PCB ENUS 12-02

ORIGINAL

YEAR

252 f. The Department of Agriculture and Consumer Services may
 253 adopt by rule the form for the application for a certificate,
 254 requirements for the content and format of information submitted
 255 to the Department of Agriculture and Consumer Services in
 256 support of the application, other procedural requirements, and
 257 criteria by which the application will be determined. The
 258 Department of Agriculture and Consumer Services may adopt other
 259 rules pursuant to ss. 120.536(1) and 120.54 to administer this
 260 paragraph, including rules establishing additional forms and
 261 procedures for claiming this exemption.

262 g. The Department of Agriculture and Consumer Services
 263 shall be responsible for ensuring that the total amount of the
 264 exemptions authorized do not exceed the limits specified in
 265 subparagraph 2.

266 5. Approval of the exemptions under this section is on a
 267 first-come, first-served basis, based upon the date complete
 268 applications are received by the Department of Agriculture and
 269 Consumer Services. Incomplete placeholder applications will not
 270 be accepted and will not secure a place in the first-come,
 271 first-served application line. The Department of Agriculture and
 272 Consumer Services shall determine and publish on its website on
 273 a regular basis the amount of sales tax funds remaining in each
 274 fiscal year.

275 6. This paragraph expires July 1, 2016.

276 Section 3. Section 220.192, Florida Statutes, is amended
 277 to read:

278 220.192 Renewable energy technologies investment tax
 279 credit.-

PCB ENUS 12-02

ORIGINAL

YEAR

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

281 (a) "Biodiesel" means biodiesel as defined in ~~former s.~~
 282 212.08 (7) (hhh) ~~(eee)~~.

283 (b) "Corporation" includes a general partnership, limited
 284 partnership, limited liability company, unincorporated business,
 285 or other business entity, including entities taxed as
 286 partnerships for federal income tax purposes.

287 (c) "Eligible costs" means ~~÷~~ seventy-five percent of all
 288 capital costs, operation and maintenance costs, and research and
 289 development costs incurred between July 1, 2012 ~~2006~~, and June
 290 30, 2016 ~~2010~~, not to exceed \$1 million per state fiscal year
 291 for each taxpayer and up to a limit of \$10 ~~\$6.5~~ million per
 292 state fiscal year for all taxpayers, in connection with an
 293 investment in the production, storage, and distribution of
 294 biodiesel (B10-B100), and ethanol (E10-E100), and other
 295 renewable fuel in the state, including the costs of
 296 constructing, installing, and equipping such technologies in the
 297 state. Gasoline fueling station pump retrofits for biodiesel
 298 (B10-B100), and ethanol (E10-E100), and other renewable fuel
 299 distribution qualify as an eligible cost under this section
 300 ~~subparagraph~~.

301 ~~1. Seventy-five percent of all capital costs, operation~~
 302 ~~and maintenance costs, and research and development costs~~
 303 ~~incurred between July 1, 2006, and June 30, 2010, up to a limit~~
 304 ~~of \$3 million per state fiscal year for all taxpayers, in~~
 305 ~~connection with an investment in hydrogen-powered vehicles and~~
 306 ~~hydrogen vehicle fueling stations in the state, including, but~~
 307 ~~not limited to, the costs of constructing, installing, and~~

PCB ENUS 12-02

ORIGINAL

YEAR

308 ~~equipping such technologies in the state.~~
 309 ~~2. Seventy five percent of all capital costs, operation~~
 310 ~~and maintenance costs, and research and development costs~~
 311 ~~incurred between July 1, 2006, and June 30, 2010, up to a limit~~
 312 ~~of \$1.5 million per state fiscal year for all taxpayers, and~~
 313 ~~limited to a maximum of \$12,000 per fuel cell, in connection~~
 314 ~~with an investment in commercial stationary hydrogen fuel cells~~
 315 ~~in the state, including, but not limited to, the costs of~~
 316 ~~constructing, installing, and equipping such technologies in the~~
 317 ~~state.~~
 318 ~~3.~~
 319 (d) "Ethanol" means ethanol as defined in ~~former s.~~
 320 ~~212.08(7) (hhh) (eee).~~
 321 (e) "Renewable fuel" means a fuel produced from biomass
 322 that is used to replace or reduce the quantity of fossil fuel
 323 present in motor fuel or diesel fuel. "Biomass" means biomass as
 324 defined in s. 366.91, "motor fuel" means motor fuel as defined
 325 in s. 206.01, and "diesel fuel" means diesel fuel as defined in
 326 s. 206.86. "Hydrogen fuel cell" means hydrogen fuel cell as
 327 ~~defined in former s. 212.08(7) (eee).~~
 328 (f) "Taxpayer" includes a corporation as defined in
 329 paragraph (b) or s. 220.03.
 330 (2) TAX CREDIT.—For tax years beginning on or after
 331 January 1, 2013 ~~2007~~, a credit against the tax imposed by this
 332 chapter shall be granted in an amount equal to the eligible
 333 costs. Credits may be used in tax years beginning January 1,
 334 2013 ~~2007~~, and ending December 31, 2016 ~~2010~~, after which the
 335 credit shall expire. If the credit is not fully used in any one

PCB ENUS 12-02

ORIGINAL

YEAR

336 tax year because of insufficient tax liability on the part of
 337 the corporation, the unused amount may be carried forward and
 338 used in tax years beginning January 1, 2013 ~~2007~~, and ending
 339 December 31, 2018 ~~2012~~, after which the credit carryover expires
 340 and may not be used. A taxpayer that files a consolidated return
 341 in this state as a member of an affiliated group under s.
 342 220.131(1) may be allowed the credit on a consolidated return
 343 basis up to the amount of tax imposed upon the consolidated
 344 group. Any eligible cost for which a credit is claimed and which
 345 is deducted or otherwise reduces federal taxable income shall be
 346 added back in computing adjusted federal income under s. 220.13.

347 (3) CORPORATE APPLICATION PROCESS.—Any corporation wishing
 348 to obtain tax credits available under this section must submit
 349 to the Department of Agriculture and Consumer Services an
 350 application for tax credit that includes a complete description
 351 of all eligible costs for which the corporation is seeking a
 352 credit and a description of the total amount of credits sought.
 353 The Department of Agriculture and Consumer Services shall make a
 354 determination on the eligibility of the applicant for the
 355 credits sought and certify the determination to the applicant
 356 and the Department of Revenue. The corporation must attach the
 357 Department of Agriculture and Consumer Services' certification
 358 to the tax return on which the credit is claimed. The Department
 359 of Agriculture and Consumer Services is responsible for ensuring
 360 that the corporate income tax credits granted in each fiscal
 361 year do not exceed the limits provided for in this section. The
 362 Department of Agriculture and Consumer Services may adopt the
 363 necessary rules and forms for the application process.

PCB ENUS 12-02

ORIGINAL

YEAR

364 (4) TAXPAYER APPLICATION PROCESS.—To claim a credit under
 365 this section, each taxpayer must apply to the Department of
 366 Agriculture and Consumer Services for an allocation of each type
 367 of annual credit by the date established by the Department of
 368 Agriculture and Consumer Services. The application form adopted
 369 by rule of the Department of Agriculture and Consumer Services
 370 must include an affidavit from each taxpayer certifying that all
 371 information contained in the application, including all records
 372 of eligible costs claimed as the basis for the tax credit, are
 373 true and correct. Approval of the credits under this section is
 374 on a first-come, first-served basis, based upon the date
 375 complete applications are received by the Department of
 376 Agriculture and Consumer Services. A taxpayer must submit only
 377 one complete application based upon eligible costs incurred
 378 within a particular state fiscal year. Incomplete placeholder
 379 applications will not be accepted and will not secure a place in
 380 the first-come, first-served application line. If a taxpayer
 381 does not receive a tax credit allocation due to the exhaustion
 382 of the annual tax credit authorizations, then such taxpayer may
 383 reapply in the following year for those eligible costs and will
 384 have priority over other applicants for the allocation of
 385 credits.

386 (5) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF
 387 CREDITS.—

388 (a) In addition to its existing audit and investigation
 389 authority, the Department of Revenue may perform any additional
 390 financial and technical audits and investigations, including
 391 examining the accounts, books, and records of the tax credit

PCB ENUS 12-02

ORIGINAL

YEAR

392 applicant, which are necessary to verify the eligible costs
 393 included in the tax credit return and to ensure compliance with
 394 this section. The Department of Agriculture and Consumer
 395 Services shall provide technical assistance when requested by
 396 the Department of Revenue on any technical audits or
 397 examinations performed pursuant to this section.

398 (b) It is grounds for forfeiture of previously claimed and
 399 received tax credits if the Department of Revenue determines, as
 400 a result of an audit or examination or from information received
 401 from the Department of Agriculture and Consumer Services, that a
 402 taxpayer received tax credits pursuant to this section to which
 403 the taxpayer was not entitled. The taxpayer is responsible for
 404 returning forfeited tax credits to the Department of Revenue,
 405 and such funds shall be paid into the General Revenue Fund of
 406 the state.

407 (c) The Department of Agriculture and Consumer Services
 408 may revoke or modify any written decision granting eligibility
 409 for tax credits under this section if it is discovered that the
 410 tax credit applicant submitted any false statement,
 411 representation, or certification in any application, record,
 412 report, plan, or other document filed in an attempt to receive
 413 tax credits under this section. The Department of Agriculture
 414 and Consumer Services shall immediately notify the Department of
 415 Revenue of any revoked or modified orders affecting previously
 416 granted tax credits. Additionally, the taxpayer must notify the
 417 Department of Revenue of any change in its tax credit claimed.

418 (d) The taxpayer shall file with the Department of Revenue
 419 an amended return or such other report as the Department of

PCB ENUS 12-02

ORIGINAL

YEAR

420 Revenue prescribes by rule and shall pay any required tax and
 421 interest within 60 days after the taxpayer receives notification
 422 from the Department of Agriculture and Consumer Services that
 423 previously approved tax credits have been revoked or modified.
 424 If the revocation or modification order is contested, the
 425 taxpayer shall file an amended return or other report as
 426 provided in this paragraph within 60 days after a final order is
 427 issued after proceedings.

428 (e) A notice of deficiency may be issued by the Department
 429 of Revenue at any time within 3 years after the taxpayer
 430 receives formal notification from the Department of Agriculture
 431 and Consumer Services that previously approved tax credits have
 432 been revoked or modified. If a taxpayer fails to notify the
 433 Department of Revenue of any changes to its tax credit claimed,
 434 a notice of deficiency may be issued at any time.

435 (6) TRANSFERABILITY OF CREDIT.—

436 (a) For tax years beginning on or after January 1, 2014
 437 ~~2009~~, any corporation or subsequent transferee allowed a tax
 438 credit under this section may transfer the credit, in whole or
 439 in part, to any taxpayer by written agreement without
 440 transferring any ownership interest in the property generating
 441 the credit or any interest in the entity owning such property.
 442 The transferee is entitled to apply the credits against the tax
 443 with the same effect as if the transferee had incurred the
 444 eligible costs.

445 (b) To perfect the transfer, the transferor shall provide
 446 the Department of Revenue with a written transfer statement
 447 notifying the Department of Revenue of the transferor's intent

PCB ENUS 12-02

ORIGINAL

YEAR

448 | to transfer the tax credits to the transferee; the date the
 449 | transfer is effective; the transferee's name, address, and
 450 | federal taxpayer identification number; the tax period; and the
 451 | amount of tax credits to be transferred. The Department of
 452 | Revenue shall, upon receipt of a transfer statement conforming
 453 | to the requirements of this section, provide the transferee with
 454 | a certificate reflecting the tax credit amounts transferred. A
 455 | copy of the certificate must be attached to each tax return for
 456 | which the transferee seeks to apply such tax credits.

457 | (c) A tax credit authorized under this section that is
 458 | held by a corporation and not transferred under this subsection
 459 | shall be passed through to the taxpayers designated as partners,
 460 | members, or owners, respectively, in the manner agreed to by
 461 | such persons regardless of whether such partners, members, or
 462 | owners are allocated or allowed any portion of the federal
 463 | energy tax credit for the eligible costs. A corporation that
 464 | passes the credit through to a partner, member, or owner must
 465 | comply with the notification requirements described in paragraph
 466 | (b). The partner, member, or owner must attach a copy of the
 467 | certificate to each tax return on which the partner, member, or
 468 | owner claims any portion of the credit.

469 | (7) RULES.—The Department of Revenue and the Department of
 470 | Agriculture and Consumer Services shall have the authority to
 471 | adopt rules pursuant to ss. 120.536(1) and 120.54 to administer
 472 | this section, including rules relating to:

473 | (a) The forms required to claim a tax credit under this
 474 | section, the requirements and basis for establishing an
 475 | entitlement to a credit, and the examination and audit

PCB ENUS 12-02

ORIGINAL

YEAR

476 | procedures required to administer this section.

477 | (b) The implementation and administration of the
478 | provisions allowing a transfer of a tax credit, including rules
479 | prescribing forms, reporting requirements, and specific
480 | procedures, guidelines, and requirements necessary to transfer a
481 | tax credit.

482 | (8) PUBLICATION.—The Department of Agriculture and
483 | Consumer Services shall determine and publish on its website on
484 | a regular basis the amount of available tax credits remaining in
485 | each fiscal year.

486 | Section 4. Section 220.193, Florida Statutes, is amended
487 | to read:

488 | 220.193 Florida renewable energy production credit.—

489 | (1) The purpose of this section is to encourage the
490 | development and expansion of facilities that produce renewable
491 | energy in Florida.

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

493 | (a) "Commission" shall mean the Public Service Commission.

494 | (b) "Department" shall mean the Department of Revenue.

495 | (c) "Expanded facility" shall mean a Florida renewable
496 | energy facility that increases its electrical production and
497 | sale by more than 5 percent above the facility's electrical
498 | production and sale during the 2011 ~~2005~~ calendar year.

499 | (d) "Florida renewable energy facility" shall mean a
500 | facility in the state that produces electricity for sale from
501 | renewable energy, as defined in s. 377.803.

502 | (e) "New facility" shall mean a Florida renewable energy
503 | facility that is operationally placed in service after May 1,

PCB ENUS 12-02

ORIGINAL

YEAR

504 2012 ~~2006~~.

505 (f) "Sale" or "sold" includes the use of electricity by
506 the producer of such electricity which decreases the amount of
507 electricity that the producer would otherwise have to purchase.

508 (g) "Taxpayer" includes a general partnership, limited
509 partnership, limited liability company, trust, or other
510 artificial entity in which a corporation, as defined in s.
511 220.03(1)(e), owns an interest and is taxed as a partnership or
512 is disregarded as a separate entity from the corporation under
513 this chapter.

514 (3) An annual credit against the tax imposed by this
515 section shall be allowed to a taxpayer, based on the taxpayer's
516 production and sale of electricity from a new or expanded
517 Florida renewable energy facility. For a new facility, the
518 credit shall be based on the taxpayer's sale of the facility's
519 entire electrical production. For an expanded facility, the
520 credit shall be based on the increases in the facility's
521 electrical production that are achieved after May 1, 2012 ~~2006~~.

522 (a) The credit shall be \$0.01 for each kilowatt-hour of
523 electricity produced and sold by the taxpayer to an unrelated
524 party during a given tax year.

525 (b) The credit may be claimed for electricity produced and
526 sold on or after January 1, 2013 ~~2007~~. Beginning in 2014 ~~2008~~
527 and continuing until 2017 ~~2011~~, each taxpayer claiming a credit
528 under this section must first apply to the department by
529 February 1 of each year for an allocation of available credit.
530 The department, in consultation with the commission, shall
531 develop an application form. The application form shall, at a

PCB ENUS 12-02

ORIGINAL

YEAR

532 minimum, require a sworn affidavit from each taxpayer certifying
 533 the increase in production and sales that form the basis of the
 534 application and certifying that all information contained in the
 535 application is true and correct.

536 (c) If the amount of credits applied for each year exceeds
 537 \$5 million, the department shall award to each applicant a
 538 prorated amount based on each applicant's increased production
 539 and sales and the increased production and sales of all
 540 applicants.

541 (d) If the credit granted pursuant to this section is not
 542 fully used in one year because of insufficient tax liability on
 543 the part of the taxpayer, the unused amount may be carried
 544 forward for a period not to exceed 5 years. The carryover credit
 545 may be used in a subsequent year when the tax imposed by this
 546 chapter for such year exceeds the credit for such year, after
 547 applying the other credits and unused credit carryovers in the
 548 order provided in s. 220.02(8).

549 (e) A taxpayer that files a consolidated return in this
 550 state as a member of an affiliated group under s. 220.131(1) may
 551 be allowed the credit on a consolidated return basis up to the
 552 amount of tax imposed upon the consolidated group.

553 (f)1. Tax credits that may be available under this section
 554 to an entity eligible under this section may be transferred
 555 after a merger or acquisition to the surviving or acquiring
 556 entity and used in the same manner with the same limitations.

557 2. The entity or its surviving or acquiring entity as
 558 described in subparagraph 1. may transfer any unused credit in
 559 whole or in units of no less than 25 percent of the remaining

PCB ENUS 12-02

ORIGINAL

YEAR

560 credit. The entity acquiring such credit may use it in the same
 561 manner and with the same limitations under this section. Such
 562 transferred credits may not be transferred again although they
 563 may succeed to a surviving or acquiring entity subject to the
 564 same conditions and limitations as described in this section.

565 3. In the event the credit provided for under this section
 566 is reduced as a result of an examination or audit by the
 567 department, such tax deficiency shall be recovered from the
 568 first entity or the surviving or acquiring entity to have
 569 claimed such credit up to the amount of credit taken. Any
 570 subsequent deficiencies shall be assessed against any entity
 571 acquiring and claiming such credit, or in the case of multiple
 572 succeeding entities in the order of credit succession.

573 (g) Notwithstanding any other provision of this section,
 574 credits for the production and sale of electricity from a new or
 575 expanded Florida renewable energy facility may be earned between
 576 January 1, 2013 ~~2007~~, and June 30, 2016 ~~2010~~. The amount of tax
 577 credits which may be granted to each taxpayer under this section
 578 is limited to \$500,000 per state fiscal year. The combined total
 579 amount of tax credits which may be granted for all taxpayers
 580 under this section is limited to \$5 million per state fiscal
 581 year.

582 (h) A taxpayer claiming a credit under this section shall
 583 be required to add back to net income that portion of its
 584 business deductions claimed on its federal return paid or
 585 incurred for the taxable year which is equal to the amount of
 586 the credit allowable for the taxable year under this section.

587 (i) A taxpayer claiming credit under this section may not

PCB ENUS 12-02

ORIGINAL

YEAR

588 claim a credit under s. 220.192. A taxpayer claiming credit
 589 under s. 220.192 may not claim a credit under this section.

590 (j) When an entity treated as a partnership or a
 591 disregarded entity under this chapter produces and sells
 592 electricity from a new or expanded renewable energy facility,
 593 the credit earned by such entity shall pass through in the same
 594 manner as items of income and expense pass through for federal
 595 income tax purposes. When an entity applies for the credit and
 596 the entity has received the credit by a pass-through, the
 597 application must identify the taxpayer that passed the credit
 598 through, all taxpayers that received the credit, and the
 599 percentage of the credit that passes through to each recipient
 600 and must provide other information that the department requires.

601 (k) A taxpayer's use of the credit granted pursuant to
 602 this section does not reduce the amount of any credit available
 603 to such taxpayer under s. 220.186.

604 (4) The department may adopt rules to implement and
 605 administer this section, including rules prescribing forms, the
 606 documentation needed to substantiate a claim for the tax credit,
 607 and the specific procedures and guidelines for claiming the
 608 credit.

609 (5) This section shall take effect upon becoming law and
 610 shall apply to tax years beginning on and after January 1, 2013
 611 ~~2007~~.

612 Section 5. Subsection (3) of section 255.257, Florida
 613 Statutes, is amended to read:

614 255.257 Energy management; buildings occupied by state
 615 agencies.—

PCB ENUS 12-02

ORIGINAL

YEAR

616 (3) CONTENTS OF THE STATE ENERGY MANAGEMENT PLAN.—The
 617 Department of Management Services in coordination with the
 618 Department of Agriculture and Consumer Services shall further
 619 develop the a state energy management plan consisting of, but
 620 not limited to, the following elements:

- 621 (a) Data-gathering requirements;
- 622 (b) Building energy audit procedures;
- 623 (c) Uniform data analysis and reporting procedures;
- 624 (d) Employee energy education program measures;
- 625 (e) Energy consumption reduction techniques;
- 626 (f) Training program for state agency energy management
 627 coordinators; and
- 628 (g) Guidelines for building managers.

629
 630 The plan shall include a description of actions that state
 631 agencies shall take to reduce consumption of electricity and
 632 nonrenewable energy sources used for space heating and cooling,
 633 ventilation, lighting, water heating, and transportation.

634 Section 6. Paragraph (q) of subsection (2) of section
 635 288.106, Florida Statutes, is amended to read:

636 288.106 Tax refund program for qualified target industry
 637 businesses.—

638 (1) LEGISLATIVE FINDINGS AND DECLARATIONS.—The Legislature
 639 finds that retaining and expanding existing businesses in the
 640 state, encouraging the creation of new businesses in the state,
 641 attracting new businesses from outside the state, and generally
 642 providing conditions favorable for the growth of target
 643 industries creates high-quality, high-wage employment

PCB ENUS 12-02

ORIGINAL

YEAR

644 opportunities for residents of the state and strengthens the
 645 state's economic foundation. The Legislature also finds that
 646 incentives narrowly focused in application and scope tend to be
 647 more effective in achieving the state's economic development
 648 goals. The Legislature further finds that higher-wage jobs
 649 reduce the state's share of hidden costs, such as public
 650 assistance and subsidized health care associated with low-wage
 651 jobs. Therefore, the Legislature declares that it is the policy
 652 of the state to encourage the growth of higher-wage jobs and a
 653 diverse economic base by providing state tax refunds to
 654 qualified target industry businesses that originate or expand in
 655 the state or that relocate to the state.

656 (2) DEFINITIONS.—As used in this section:

657 (q) "Target industry business" means a corporate
 658 headquarters business or any business that is engaged in one of
 659 the target industries identified pursuant to the following
 660 criteria developed by the department in consultation with
 661 Enterprise Florida, Inc.:

662 1. Future growth.—Industry forecasts should indicate
 663 strong expectation for future growth in both employment and
 664 output, according to the most recent available data. Special
 665 consideration should be given to businesses that export goods
 666 to, or provide services in, international markets and businesses
 667 that replace domestic and international imports of goods or
 668 services.

669 2. Stability.—The industry should not be subject to
 670 periodic layoffs, whether due to seasonality or sensitivity to
 671 volatile economic variables such as weather. The industry should

PCB ENUS 12-02

ORIGINAL

YEAR

672 | also be relatively resistant to recession, so that the demand
 673 | for products of this industry is not typically subject to
 674 | decline during an economic downturn.

675 | 3. High wage.—The industry should pay relatively high
 676 | wages compared to statewide or area averages.

677 | 4. Market and resource independent.—The location of
 678 | industry businesses should not be dependent on Florida markets
 679 | or resources as indicated by industry analysis, except for
 680 | businesses in the renewable energy industry.

681 | 5. Industrial base diversification and strengthening.—The
 682 | industry should contribute toward expanding or diversifying the
 683 | state's or area's economic base, as indicated by analysis of
 684 | employment and output shares compared to national and regional
 685 | trends. Special consideration should be given to industries that
 686 | strengthen regional economies by adding value to basic products
 687 | or building regional industrial clusters as indicated by
 688 | industry analysis. Special consideration should also be given to
 689 | the development of strong industrial clusters that include
 690 | defense and homeland security businesses.

691 | 6. Positive economic impact.—The industry is expected to
 692 | have strong positive economic impacts on or benefits to the
 693 | state or regional economies. Special consideration should be
 694 | given to industries that facilitate the development of the state
 695 | as a hub for domestic and global trade and logistics.

696 |
 697 | The term does not include any business engaged in retail
 698 | industry activities; any electrical utility company as defined
 699 | in s. 366.02(2); any phosphate or other solid minerals

PCB ENUS 12-02

ORIGINAL

YEAR

700 severance, mining, or processing operation; any oil or gas
 701 exploration or production operation; or any business subject to
 702 regulation by the Division of Hotels and Restaurants of the
 703 Department of Business and Professional Regulation. Any business
 704 within NAICS code 5611 or 5614, office administrative services
 705 and business support services, respectively, may be considered a
 706 target industry business only after the local governing body and
 707 Enterprise Florida, Inc., make a determination that the
 708 community where the business may locate has conditions affecting
 709 the fiscal and economic viability of the local community or
 710 area, including but not limited to, factors such as low per
 711 capita income, high unemployment, high underemployment, and a
 712 lack of year-round stable employment opportunities, and such
 713 conditions may be improved by the location of such a business to
 714 the community. By January 1 of every 3rd year, beginning January
 715 1, 2011, the department, in consultation with Enterprise
 716 Florida, Inc., economic development organizations, the State
 717 University System, local governments, employee and employer
 718 organizations, market analysts, and economists, shall review
 719 and, as appropriate, revise the list of such target industries
 720 and submit the list to the Governor, the President of the
 721 Senate, and the Speaker of the House of Representatives.

722 Section 7. Paragraph (a) of subsection (5) of section
 723 20.60, Florida Statutes, is amended to read:

724 20.60 Department of Economic Opportunity; creation; powers
 725 and duties.—

726 (5) The divisions within the department have specific
 727 responsibilities to achieve the duties, responsibilities, and

PCB ENUS 12-02

ORIGINAL

YEAR

728 | goals of the department. Specifically:

729 | (a) The Division of Strategic Business Development shall:

730 | 1. Analyze and evaluate business prospects identified by
731 | the Governor, the executive director of the department, and
732 | Enterprise Florida, Inc.

733 | 2. Independently analyze and evaluate the regional and
734 | statewide economic benefits associated with a renewable energy
735 | project submitted to the Public Service Commission for a public
736 | interest determination and provided to the department for review
737 | pursuant to s. 366.92.

738 | ~~3.2.~~ Administer certain tax refund, tax credit, and grant
739 | programs created in law. Notwithstanding any other provision of
740 | law, the department may expend interest earned from the
741 | investment of program funds deposited in the Grants and
742 | Donations Trust Fund to contract for the administration of those
743 | programs, or portions of the programs, assigned to the
744 | department by law, by the appropriations process, or by the
745 | Governor. Such expenditures shall be subject to review under
746 | chapter 216.

747 | ~~4.3.~~ Develop measurement protocols for the state incentive
748 | programs and for the contracted entities which will be used to
749 | determine their performance and competitive value to the state.
750 | Performance measures, benchmarks, and sanctions must be
751 | developed in consultation with the legislative appropriations
752 | committees and the appropriate substantive committees, and are
753 | subject to the review and approval process provided in s.
754 | 216.177. The approved performance measures, standards, and
755 | sanctions shall be included and made a part of the strategic

PCB ENUS 12-02

ORIGINAL

YEAR

756 | plan for contracts entered into for delivery of programs
 757 | authorized by this section.
 758 | ~~5.4.~~ Develop a 5-year statewide strategic plan. The
 759 | strategic plan must include, but need not be limited to:
 760 | a. Strategies for the promotion of business formation,
 761 | expansion, recruitment, and retention through aggressive
 762 | marketing, international development, and export assistance,
 763 | which lead to more and better jobs and higher wages for all
 764 | geographic regions, disadvantaged communities, and populations
 765 | of the state, including rural areas, minority businesses, and
 766 | urban core areas.
 767 | b. The development of realistic policies and programs to
 768 | further the economic diversity of the state, its regions, and
 769 | their associated industrial clusters.
 770 | c. Specific provisions for the stimulation of economic
 771 | development and job creation in rural areas and midsize cities
 772 | and counties of the state, including strategies for rural
 773 | marketing and the development of infrastructure in rural areas.
 774 | d. Provisions for the promotion of the successful long-
 775 | term economic development of the state with increased emphasis
 776 | in market research and information.
 777 | e. Plans for the generation of foreign investment in the
 778 | state which create jobs paying above-average wages and which
 779 | result in reverse investment in the state, including programs
 780 | that establish viable overseas markets, assist in meeting the
 781 | financing requirements of export-ready firms, broaden
 782 | opportunities for international joint venture relationships, use
 783 | the resources of academic and other institutions, coordinate

PCB ENUS 12-02

ORIGINAL

YEAR

784 trade assistance and facilitation services, and facilitate
 785 availability of and access to education and training programs
 786 that assure requisite skills and competencies necessary to
 787 compete successfully in the global marketplace.

788 f. The identification of business sectors that are of
 789 current or future importance to the state's economy and to the
 790 state's global business image, and development of specific
 791 strategies to promote the development of such sectors.

792 g. Strategies for talent development necessary in the
 793 state to encourage economic development growth, taking into
 794 account factors such as the state's talent supply chain,
 795 education and training opportunities, and available workforce.

796 5. Update the strategic plan every 5 years.

797 6. Involve Enterprise Florida, Inc.; Workforce Florida,
 798 Inc.; local governments; the general public; local and regional
 799 economic development organizations; other local, state, and
 800 federal economic, international, and workforce development
 801 entities; the business community; and educational institutions
 802 to assist with the strategic plan.

803 Section 8. Subsections (2) through (7) of section 366.92,
 804 Florida Statutes, are amended to read:

805 366.92 Florida renewable energy policy.—

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

807 (a) "Department" means the Department of Economic
 808 Opportunity ~~"Florida renewable energy resources" means renewable~~
 809 ~~energy, as defined in s. 377.803, that is produced in Florida.~~

810 ~~(b) "Provider" means a "utility" as defined in s.~~
 811 ~~366.8255(1)(a).~~

PCB ENUS 12-02

ORIGINAL

YEAR

812 (b)~~(e)~~ "Renewable energy" means renewable energy as
 813 defined in s. 366.91~~(2)~~~~(d)~~ that is produced in the state.

814 (c) "Renewable energy project" means the construction of a
 815 new renewable energy generating facility, the conversion of an
 816 existing fossil fuel generating facility to a renewable energy
 817 generating facility, or a contract for the purchase of renewable
 818 energy from a non-utility generating facility.

819 (d) "Utility" means an electric utility as defined in s.
 820 366.8255 "Renewable energy credit" or "REC" means a product that
 821 represents the unbundled, separable, renewable attribute of
 822 renewable energy produced in Florida and is equivalent to 1
 823 megawatt-hour of electricity generated by a source of renewable
 824 energy located in Florida.

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

829 ~~(3) The commission shall adopt rules for a renewable~~
 830 ~~portfolio standard requiring each provider to supply renewable~~
 831 ~~energy to its customers directly, by procuring, or through~~
 832 ~~renewable energy credits. In developing the RPS rule, the~~
 833 ~~commission shall consult the Department of Environmental~~
 834 ~~Protection and the Department of Agriculture and Consumer~~
 835 ~~Services. The rule shall not be implemented until ratified by~~
 836 ~~the Legislature. The commission shall present a draft rule for~~
 837 ~~legislative consideration by February 1, 2009.~~

838 ~~(a) In developing the rule, the commission shall evaluate~~
 839 ~~the current and forecasted levelized cost in cents per kilowatt~~

PCB ENUS 12-02

ORIGINAL

YEAR

840 ~~hour through 2020 and current and forecasted installed capacity~~
 841 ~~in kilowatts for each renewable energy generation method through~~
 842 ~~2020.~~

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

844 ~~1. Shall include methods of managing the cost of~~
 845 ~~compliance with the renewable portfolio standard, whether~~
 846 ~~through direct supply or procurement of renewable power or~~
 847 ~~through the purchase of renewable energy credits. The commission~~
 848 ~~shall have rulemaking authority for providing annual cost~~
 849 ~~recovery and incentive-based adjustments to authorized rates of~~
 850 ~~return on common equity to providers to incentivize renewable~~
 851 ~~energy. Notwithstanding s. 366.91(3) and (4), upon the~~
 852 ~~ratification of the rules developed pursuant to this subsection,~~
 853 ~~the commission may approve projects and power sales agreements~~
 854 ~~with renewable power producers and the sale of renewable energy~~
 855 ~~credits needed to comply with the renewable portfolio standard.~~
 856 ~~In the event of any conflict, this subparagraph shall supersede~~
 857 ~~s. 366.91(3) and (4). However, nothing in this section shall~~
 858 ~~alter the obligation of each public utility to continuously~~
 859 ~~offer a purchase contract to producers of renewable energy.~~

860 ~~2. Shall provide for appropriate compliance measures and~~
 861 ~~the conditions under which noncompliance shall be excused due to~~
 862 ~~a determination by the commission that the supply of renewable~~
 863 ~~energy or renewable energy credits was not adequate to satisfy~~
 864 ~~the demand for such energy or that the cost of securing~~
 865 ~~renewable energy or renewable energy credits was cost~~
 866 ~~prohibitive.~~

867 ~~3. May provide added weight to energy provided by wind and~~

PCB ENUS 12-02

ORIGINAL

YEAR

868 ~~solar photovoltaic over other forms of renewable energy, whether~~
 869 ~~directly supplied or procured or indirectly obtained through the~~
 870 ~~purchase of renewable energy credits.~~

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

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

876 ~~6. Shall ensure that energy credited toward compliance~~
 877 ~~with the requirements of this section is not credited toward any~~
 878 ~~other purpose.~~

879 ~~7. Shall include procedures to track and account for~~
 880 ~~renewable energy credits, including ownership of renewable~~
 881 ~~energy credits that are derived from a customer-owned renewable~~
 882 ~~energy facility as a result of any action by a customer of an~~
 883 ~~electric power supplier that is independent of a program~~
 884 ~~sponsored by the electric power supplier.~~

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

888 ~~(c) Beginning on April 1 of the year following final~~
 889 ~~adoption of the commission's renewable portfolio standard rule,~~
 890 ~~each provider shall submit a report to the commission describing~~
 891 ~~the steps that have been taken in the previous year and the~~
 892 ~~steps that will be taken in the future to add renewable energy~~
 893 ~~to the provider's energy supply portfolio. The report shall~~
 894 ~~state whether the provider was in compliance with the renewable~~
 895 ~~portfolio standard during the previous year and how it will~~

PCB ENUS 12-02

ORIGINAL

YEAR

896 ~~comply with the renewable portfolio standard in the upcoming~~
 897 ~~year.~~

898 ~~(4) In order to demonstrate the feasibility and viability~~
 899 ~~of clean energy systems, the commission shall provide for full~~
 900 ~~cost recovery under the environmental cost-recovery clause of~~
 901 ~~all reasonable and prudent costs incurred by a provider for~~
 902 ~~renewable energy projects that are zero greenhouse gas emitting~~
 903 ~~at the point of generation, up to a total of 110 megawatts~~
 904 ~~statewide, and for which the provider has secured necessary~~
 905 ~~land, zoning permits, and transmission rights within the state.~~
 906 ~~Such costs shall be deemed reasonable and prudent for purposes~~
 907 ~~of cost recovery so long as the provider has used reasonable and~~
 908 ~~customary industry practices in the design, procurement, and~~
 909 ~~construction of the project in a cost-effective manner~~
 910 ~~appropriate to the location of the facility. The provider shall~~
 911 ~~report to the commission as part of the cost-recovery~~
 912 ~~proceedings the construction costs, in-service costs, operating~~
 913 ~~and maintenance costs, hourly energy production of the renewable~~
 914 ~~energy project, and any other information deemed relevant by the~~
 915 ~~commission. Any provider constructing a clean energy facility~~
 916 ~~pursuant to this section shall file for cost recovery no later~~
 917 ~~than July 1, 2009.~~

918 (3) (a) A utility may petition the commission to determine
 919 that a proposed renewable energy project, selected as a result
 920 of competitive bidding, is in the public interest.
 921 Notwithstanding s. 366.91(3) and (4), the commission shall
 922 determine that a proposed project is in the public interest if
 923 the commission finds that the project provides an overall net

PCB ENUS 12-02

ORIGINAL

YEAR

924 benefit to the state. A public interest determination is
 925 available only for those renewable energy projects that are
 926 exempt from the requirement to obtain a determination of need
 927 pursuant to s. 403.519.

928 (b) In evaluating whether a renewable energy project,
 929 selected as a result of competitive bidding and proposed by a
 930 utility for consideration, is prudent and in the public
 931 interest, the commission shall consider:

932 1. The estimated cost and estimated rate impacts of the
 933 project;

934 2. The impact of the project on the reliability and
 935 integrity of the utility's system and the statewide electric
 936 grid;

937 3. The extent to which the project strengthens fuel supply
 938 reliability to the utility and the state;

939 4. The extent to which the project promotes rate
 940 stability by reducing the risk of fuel cost volatility;

941 5. The extent to which the project retains energy
 942 expenditures in the state or regional economy;

943 6. The extent to which the project reduces the utility's
 944 regulatory costs associated with adverse environmental impacts;
 945 and

946 7. The regional and statewide economic benefits associated
 947 with the project, including independent analysis of these
 948 benefits by the department.

949 (c) The commission shall approve for recovery through the
 950 environmental cost recovery clause all reasonable and prudent
 951 costs incurred by a utility for a renewable energy project that

PCB ENUS 12-02

ORIGINAL

YEAR

952 the commission determines to be in the public interest. For a
 953 new renewable energy generating facility, recoverable costs
 954 include, but are not limited to, the siting, licensing,
 955 engineering, design, permitting, construction, operation, and
 956 maintenance of such facilities, including any applicable taxes
 957 and a return based on the utility's last authorized rate of
 958 return. For conversion of an existing fossil fuel generating
 959 facility to a renewable energy generating facility, recoverable
 960 costs include reasonable and prudent conversion costs, including
 961 the costs of retirement of the fossil fuel plant that exceed any
 962 amounts accrued by the provider for such purposes through rates
 963 previously set by the commission. For purchase of renewable
 964 energy from a non-utility generating facility, recoverable costs
 965 include the reasonable and prudent costs associated with the
 966 purchase.

967 (4) The commission shall adopt rules to implement a public
 968 interest determination process by which it will determine
 969 whether a renewable energy project, proposed by a utility for
 970 purposes of supplying electrical energy to its retail customers,
 971 provides an overall net benefit to the state pursuant to the
 972 criteria in subsection (3). The commission's rules shall:

973 (a) Provide a process for competitive bidding of a
 974 renewable energy project based on the type and technology of the
 975 renewable energy resource that the utility elects to use.

976 (b) Provide minimum requirements and information that a
 977 utility must include in a request for proposals for a new
 978 renewable energy project and other information related to the
 979 request for proposal and competitive bidding processes.

PCB ENUS 12-02

ORIGINAL

YEAR

980 (c) Establish minimum requirements and information that a
 981 utility must include in a petition for a public interest
 982 determination for a renewable energy project.

983 (d) Provide for recovery through the environmental cost
 984 recovery clause of all reasonable and prudent costs incurred by
 985 a utility for a renewable energy project that the commission
 986 determines to be in the public interest pursuant to subsection
 987 (3).

988 (e) Establish a mechanism for the sharing of revenues
 989 derived from any renewable energy credit, carbon credit, or
 990 other mechanism that attributes value to the production of
 991 renewable energy, either existing or hereafter devised, and
 992 received by a utility by virtue of the production or purchase of
 993 renewable energy found to be in the public interest pursuant to
 994 subsection (3). The utility shall be entitled to retain from
 995 these revenues no more than the amount deemed reasonable by the
 996 commission to cover the utility's transaction costs associated
 997 with the credit or other mechanism, plus 5 percent of the
 998 remaining revenues. The remainder of the revenues shall be
 999 credited to the utility's ratepayers.

1000 (f) Require a utility to report to the commission on an
 1001 annual basis, with respect to any renewable energy project that
 1002 the commission determines to be in the public interest, the
 1003 status of the project, the economic impacts of the project on
 1004 the region and the state, the amount and type of fuel displaced
 1005 by the project, operational statistics, and any other
 1006 information deemed relevant by the commission.

1007 (g) Require a seller of renewable energy, under a

PCB ENUS 12-02

ORIGINAL

YEAR

1008 purchased power agreement approved pursuant to the commission's
 1009 rules and this subsection, to surrender to the utility all
 1010 renewable attributes of the renewable energy purchased.

1011
 1012 Agency rules promulgated under the authority of this section
 1013 shall not take effect prior to July 1, 2013.

1014 (5) (a) Upon receipt of a petition for a public interest
 1015 determination pursuant to subsection (3), the commission,
 1016 through administrative review by its staff, shall determine
 1017 within 7 days whether the petition is complete. If the
 1018 commission finds that the petition is not complete, it shall
 1019 notify the petitioner of all deficiencies and provide the
 1020 petitioner an opportunity to correct the deficiencies through an
 1021 amended or supplemental filing.

1022 (b) When the commission determines that a petition is
 1023 complete, the commission shall notify the department and forward
 1024 a copy of the petition to the department within 3 days. Upon
 1025 receipt and review of the petition, the department may request
 1026 any additional information it deems necessary to complete its
 1027 review of the petition pursuant to s. 20.60(5) (a).

1028 (c) Within 45 days of receipt of the complete petition,
 1029 the department shall complete its analysis and evaluation and
 1030 submit a report reflecting its findings to the commission for
 1031 consideration in the commission's public interest determination
 1032 proceeding. The department's report is not subject to the
 1033 provisions of ch. 120.569 and 120.57. Any party to the
 1034 commission's public interest determination proceeding may
 1035 present evidence to the commission concerning the regional and

PCB ENUS 12-02

ORIGINAL

YEAR

1036 statewide economic benefits associated with the project.
 1037 (d) The commission shall issue a final order within 180
 1038 days of receipt of a complete petition for a public interest
 1039 determination filed pursuant to subsection (3).
 1040 (6)-(5) Each municipal electric utility and rural electric
 1041 cooperative shall develop standards for the promotion,
 1042 encouragement, and expansion of the use of renewable energy
 1043 resources and energy conservation and efficiency measures. On or
 1044 before April 1, 2009, and annually thereafter, each municipal
 1045 electric utility and electric cooperative shall submit to the
 1046 commission a report that identifies such standards.
 1047 (7)-(6) Nothing in This section and any action taken under
 1048 this section may not shall be construed to impede or impair the
 1049 terms and conditions of, or serve as a basis for renegotiating
 1050 or repricing an, existing contract contracts. This section may
 1051 not be construed to apply to purchases required pursuant to s.
 1052 366.051 or 366.91.
 1053 (8)-(7) The commission may adopt rules to administer and
 1054 implement the provisions of this section.
 1055 Section 9. Section 366.94, Florida Statutes, is created to
 1056 read:
 1057 366.94 Electric Vehicle Charging Stations.--
 1058 (1) The Legislature finds that the provision of electric
 1059 vehicle charging to the public by a non-utility is a service and
 1060 not the retail sale of electricity. The rates, terms and
 1061 conditions of electric vehicle charging services by a non-
 1062 utility are not subject to regulation under this chapter.
 1063 Nothing in this section affects the ability of individuals,

PCB ENUS 12-02

ORIGINAL

YEAR

1064 businesses or government entities to acquire install and/or
 1065 utilize an electric vehicle charger for their own use for their
 1066 own vehicles.

1067 (2) The Department of Agriculture and Consumer Services
 1068 shall develop rules to provide definitions, methods of sale,
 1069 labeling requirements and price posting requirements for
 1070 electric vehicle charging stations to allow for consistency for
 1071 consumers and the industry.

1072 (3) Parking spaces for electric vehicle charging stations.-

1073 (a) It is unlawful for a person to stop, stand, or park a
 1074 vehicle that is not capable of using an electrical recharging
 1075 station within any parking space specifically designated for
 1076 charging an electric vehicle.

1077 (b) If a law enforcement officer finds a motor vehicle in
 1078 violation of this section, the officer or specialist shall
 1079 charge the operator or other person in charge of the vehicle in
 1080 violation with a noncriminal traffic infraction, punishable as
 1081 provided in s. 316.008(4) or s. 318.18.

1082 Section 10. Subsection (3) of section 403.519, Florida
 1083 Statutes, is amended to read:

1084 403.519 Exclusive forum for determination of need.-

1085 (3) The commission shall be the sole forum for the
 1086 determination of this matter, which accordingly shall not be
 1087 raised in any other forum or in the review of proceedings in
 1088 such other forum. In making its determination, the commission
 1089 shall take into account the need for electric system reliability
 1090 and integrity, the need for adequate electricity at a reasonable
 1091 cost, the need ~~for~~ to improve the balance of power plant fuel

PCB ENUS 12-02

ORIGINAL

YEAR

1092 diversity and supply reliability within the state and within the
 1093 generation portfolio of the applicant, whether the proposed
 1094 plant is the most cost-effective alternative available, and
 1095 whether renewable energy sources and technologies, as well as
 1096 conservation measures, are utilized to the extent reasonably
 1097 available. The commission shall also expressly consider the
 1098 conservation measures taken by or reasonably available to the
 1099 applicant or its members which might mitigate the need for the
 1100 proposed plant and other matters within its jurisdiction which
 1101 it deems relevant. The commission's determination of need for an
 1102 electrical power plant shall create a presumption of public need
 1103 and necessity and shall serve as the commission's report
 1104 required by s. 403.507(4). An order entered pursuant to this
 1105 section constitutes final agency action.

1106 Section 11. Subsection (4) of section 581.083, Florida
 1107 Statutes, is amended to read:

1108 581.083 Introduction or release of plant pests, noxious
 1109 weeds, or organisms affecting plant life; cultivation of
 1110 nonnative plants; special permit and security required.—

1111 (4) A person may not cultivate a nonnative plant, algae,
 1112 or blue green algae, including a genetically engineered plant,
 1113 algae, or blue green algae, ~~or a plant that has been introduced,~~
 1114 ~~for purposes of fuel production or purposes other than~~
 1115 ~~agriculture~~ in plantings greater in size than 2 contiguous
 1116 acres, except under a special permit issued by the department
 1117 through the division, which is the sole agency responsible for
 1118 issuing such special permits. Such a permit shall not be
 1119 required if the department determines, after consulting ~~in~~

PCB ENUS 12-02

ORIGINAL

YEAR

1120 ~~conjunction~~ with the Institute of Food and Agricultural Sciences
 1121 at the University of Florida, that based on experience or
 1122 research data, the nonnative plant, algae, or blue green algae,
 1123 does not pose a known threat of becoming an is not invasive
 1124 species or a pest of plants or native fauna under Florida
 1125 conditions and subsequently exempts the plant by rule. A permit
 1126 shall not be required for any plant or group of plants that,
 1127 based on experience or research data, does not pose a known
 1128 threat of becoming an invasive species and is commonly grown in
 1129 Florida for the purposes of human food consumption or for
 1130 commercial feed, feedstuff, forage for livestock, nursery stock,
 1131 or silviculture.

1132 (a)1. Each application for a special permit must be
 1133 accompanied by a fee as described in subsection (2) and proof
 1134 that the applicant has obtained, on a form approved by the
 1135 department, a bond in the form approved by the department and
 1136 issued by a surety company admitted to do business in this state
 1137 or a certificate of deposit, or other type of security adopted
 1138 by rule of the department which provides a financial assurance
 1139 of cost recovery for the removal of a planting. The application
 1140 must include, on a form provided by the department, the name of
 1141 the applicant and the applicant's address or the address of the
 1142 applicant's principal place of business; a statement completely
 1143 identifying the nonnative plant to be cultivated; and a
 1144 statement of the estimated cost of removing and destroying the
 1145 plant that is the subject of the special permit and the basis
 1146 for calculating or determining that estimate. If the applicant
 1147 is a corporation, partnership, or other business entity, the

PCB ENUS 12-02

ORIGINAL

YEAR

1148 applicant must also provide in the application the name and
 1149 address of each officer, partner, or managing agent. The
 1150 applicant shall notify the department within 10 business days of
 1151 any change of address or change in the principal place of
 1152 business. The department shall mail all notices to the
 1153 applicant's last known address.

1154 2. As used in this subsection, the term "certificate of
 1155 deposit" means a certificate of deposit at any recognized
 1156 financial institution doing business in the United States. The
 1157 department may not accept a certificate of deposit in connection
 1158 with the issuance of a special permit unless the issuing
 1159 institution is properly insured by the Federal Deposit Insurance
 1160 Corporation or the Federal Savings and Loan Insurance
 1161 Corporation.

1162 (b) Upon obtaining a permit, the permitholder may annually
 1163 cultivate and maintain the nonnative plants as authorized by the
 1164 special permit. If the permitholder ceases to maintain or
 1165 cultivate the plants authorized by the special permit, if the
 1166 permit expires, or if the permitholder ceases to abide by the
 1167 conditions of the special permit, the permitholder shall
 1168 immediately remove and destroy the plants that are subject to
 1169 the permit, if any remain. The permitholder shall notify the
 1170 department of the removal and destruction of the plants within
 1171 10 days after such event.

1172 (c) If the department:

1173 1. Determines that the permitholder is no longer
 1174 maintaining or cultivating the plants subject to the special
 1175 permit and has not removed and destroyed the plants authorized

PCB ENUS 12-02

ORIGINAL

YEAR

1176 | by the special permit;
 1177 | 2. Determines that the continued maintenance or
 1178 | cultivation of the plants presents an imminent danger to public
 1179 | health, safety, or welfare;
 1180 | 3. Determines that the permitholder has exceeded the
 1181 | conditions of the authorized special permit; or
 1182 | 4. Receives a notice of cancellation of the surety bond,
 1183 | the department may issue an immediate final order, which shall
 1184 | be immediately appealable or enjoicable as provided by chapter
 1185 | 120, directing the permitholder to immediately remove and
 1186 | destroy the plants authorized to be cultivated under the special
 1187 | permit. A copy of the immediate final order shall be mailed to
 1188 | the permitholder and to the surety company or financial
 1189 | institution that has provided security for the special permit,
 1190 | if applicable.
 1191 | (d) If, upon issuance by the department of an immediate
 1192 | final order to the permitholder, the permitholder fails to
 1193 | remove and destroy the plants subject to the special permit
 1194 | within 60 days after issuance of the order, or such shorter
 1195 | period as is designated in the order as public health, safety,
 1196 | or welfare requires, the department may enter the cultivated
 1197 | acreage and remove and destroy the plants that are the subject
 1198 | of the special permit. If the permitholder makes a written
 1199 | request to the department for an extension of time to remove and
 1200 | destroy the plants that demonstrates specific facts showing why
 1201 | the plants could not reasonably be removed and destroyed in the
 1202 | applicable timeframe, the department may extend the time for
 1203 | removing and destroying plants subject to a special permit. The

PCB ENUS 12-02

ORIGINAL

YEAR

1204 reasonable costs and expenses incurred by the department for
 1205 removing and destroying plants subject to a special permit shall
 1206 be reimbursed to the department by the permitholder within 21
 1207 days after the date the permitholder and the surety company or
 1208 financial institution are served a copy of the department's
 1209 invoice for the costs and expenses incurred by the department to
 1210 remove and destroy the cultivated plants, along with a notice of
 1211 administrative rights, unless the permitholder or the surety
 1212 company or financial institution object to the reasonableness of
 1213 the invoice. In the event of an objection, the permitholder or
 1214 surety company or financial institution is entitled to an
 1215 administrative proceeding as provided by chapter 120. Upon entry
 1216 of a final order determining the reasonableness of the incurred
 1217 costs and expenses, the permitholder shall have 15 days
 1218 following service of the final order to reimburse the
 1219 department. Failure of the permitholder to timely reimburse the
 1220 department for the incurred costs and expenses entitles the
 1221 department to reimbursement from the applicable bond or
 1222 certificate of deposit.

1223 (e) Each permitholder shall maintain for each separate
 1224 growing location a bond or a certificate of deposit in an amount
 1225 determined by the department, but not more ~~less~~ than 150 percent
 1226 of the estimated cost of removing and destroying the cultivated
 1227 plants. The bond or certificate of deposit may not exceed \$5,000
 1228 per acre, unless a higher amount is determined by the department
 1229 to be necessary to protect the public health, safety, and
 1230 welfare or unless an exemption is granted by the department
 1231 based on conditions specified in the application which would

PCB ENUS 12-02

ORIGINAL

YEAR

1232 preclude the department from incurring the cost of removing and
 1233 destroying the cultivated plants and would prevent injury to the
 1234 public health, safety, and welfare. The aggregate liability of
 1235 the surety company or financial institution to all persons for
 1236 all breaches of the conditions of the bond or certificate of
 1237 deposit may not exceed the amount of the bond or certificate of
 1238 deposit. The original bond or certificate of deposit required by
 1239 this subsection shall be filed with the department. A surety
 1240 company shall give the department 30 days' written notice of
 1241 cancellation, by certified mail, in order to cancel a bond.
 1242 Cancellation of a bond does not relieve a surety company of
 1243 liability for paying to the department all costs and expenses
 1244 incurred or to be incurred for removing and destroying the
 1245 permitted plants covered by an immediate final order authorized
 1246 under paragraph (c). A bond or certificate of deposit must be
 1247 provided or assigned in the exact name in which an applicant
 1248 applies for a special permit. The penal sum of the bond or
 1249 certificate of deposit to be furnished to the department by a
 1250 permitholder in the amount specified in this paragraph must
 1251 guarantee payment of the costs and expenses incurred or to be
 1252 incurred by the department for removing and destroying the
 1253 plants cultivated under the issued special permit. The bond or
 1254 certificate of deposit assignment or agreement must be upon a
 1255 form prescribed or approved by the department and must be
 1256 conditioned to secure the faithful accounting for and payment of
 1257 all costs and expenses incurred by the department for removing
 1258 and destroying all plants cultivated under the special permit.
 1259 The bond or certificate of deposit assignment or agreement must

PCB ENUS 12-02

ORIGINAL

YEAR

1260 include terms binding the instrument to the Commissioner of
 1261 Agriculture. Such certificate of deposit shall be presented with
 1262 an assignment of the permitholder's rights in the certificate in
 1263 favor of the Commissioner of Agriculture on a form prescribed by
 1264 the department and with a letter from the issuing institution
 1265 acknowledging that the assignment has been properly recorded on
 1266 the books of the issuing institution and will be honored by the
 1267 issuing institution. Such assignment is irrevocable while a
 1268 special permit is in effect and for an additional period of 6
 1269 months after termination of the special permit if operations to
 1270 remove and destroy the permitted plants are not continuing and
 1271 if the department's invoice remains unpaid by the permitholder
 1272 under the issued immediate final order. If operations to remove
 1273 and destroy the plants are pending, the assignment remains in
 1274 effect until all plants are removed and destroyed and the
 1275 department's invoice has been paid. The bond or certificate of
 1276 deposit may be released by the assignee of the surety company or
 1277 financial institution to the permitholder, or to the
 1278 permitholder's successors, assignee, or heirs, if operations to
 1279 remove and destroy the permitted plants are not pending and no
 1280 invoice remains unpaid at the conclusion of 6 months after the
 1281 last effective date of the special permit. The department may
 1282 not accept a certificate of deposit that contains any provision
 1283 that would give to any person any prior rights or claim on the
 1284 proceeds or principal of such certificate of deposit. The
 1285 department shall determine by rule whether an annual bond or
 1286 certificate of deposit will be required. The amount of such bond
 1287 or certificate of deposit shall be increased, upon order of the

PCB ENUS 12-02

ORIGINAL

YEAR

1288 department, at any time if the department finds such increase to
 1289 be warranted by the cultivating operations of the permitholder.
 1290 In the same manner, the amount of such bond or certificate of
 1291 deposit may be adjusted downward or removed ~~decreased~~ when a
 1292 decrease in the cultivating operations of the permitholder
 1293 occurs or when research or practical field knowledge and
 1294 observations indicate low risk of invasiveness by the nonnative
 1295 species ~~the cultivating operations warrants such decrease.~~
 1296 Factors that may be considered for change include multiple years
 1297 or cycles of successful large-scale contained cultivation, no
 1298 observation of plant, algae, or blue-green algae escape from
 1299 managed areas, or science-based evidence that established or
 1300 approved adjusted cultivation practices will provide a similar
 1301 level of containment of the nonnative plant, algae, or blue-
 1302 green algae. This paragraph applies to any bond or certificate
 1303 of deposit, regardless of the anniversary date of its issuance,
 1304 expiration, or renewal.

1305 (f) In order to carry out the purposes of this subsection,
 1306 the department or its agents may require from any permitholder
 1307 verified statements of the cultivated acreage subject to the
 1308 special permit and may review the permitholder's business or
 1309 cultivation records at her or his place of business during
 1310 normal business hours in order to determine the acreage
 1311 cultivated. The failure of a permitholder to furnish such
 1312 statement, to make such records available, or to make and
 1313 deliver a new or additional bond or certificate of deposit is
 1314 cause for suspension of the special permit. If the department

PCB ENUS 12-02

ORIGINAL

YEAR

1315 finds such failure to be willful, the special permit may be
 1316 revoked.

1317 Section 12. Subsection (3) of section 20.121, Florida
 1318 Statutes, is amended to read:

1319 20.121 Department of Financial Services.—There is created
 1320 a Department of Financial Services.

1321 (3) FINANCIAL SERVICES COMMISSION.—Effective January 7,
 1322 2003, there is created within the Department of Financial
 1323 Services the Financial Services Commission, composed of the
 1324 Governor, the Attorney General, the Chief Financial Officer, and
 1325 the Commissioner of Agriculture, which shall for purposes of
 1326 this section be referred to as the commission. Commission
 1327 members shall serve as agency head of the Financial Services
 1328 Commission. The commission shall be a separate budget entity and
 1329 shall be exempt from the provisions of s. 20.052. Commission
 1330 action shall be by majority vote consisting of at least three
 1331 affirmative votes. The commission shall not be subject to
 1332 control, supervision, or direction by the Department of
 1333 Financial Services in any manner, including purchasing,
 1334 transactions involving real or personal property, personnel, or
 1335 budgetary matters.

1336 (a) Structure.—The major structural unit of the commission
 1337 is the office. Each office shall be headed by a director. The
 1338 following offices are established:

1339 1. The Office of Insurance Regulation, which shall be
 1340 responsible for all activities concerning insurers and other
 1341 risk bearing entities, including licensing, rates, policy forms,
 1342 market conduct, claims, issuance of certificates of authority,

PCB ENUS 12-02

ORIGINAL

YEAR

1343 solvency, viatical settlements, premium financing, and
 1344 administrative supervision, as provided under the insurance code
 1345 or chapter 636. The head of the Office of Insurance Regulation
 1346 is the Director of the Office of Insurance Regulation, who may
 1347 also be known as the Commissioner of Insurance Regulation.

1348 2. The Office of Financial Regulation, which shall be
 1349 responsible for all activities of the Financial Services
 1350 Commission relating to the regulation of banks, credit unions,
 1351 other financial institutions, finance companies, and the
 1352 securities industry. The head of the office is the Director of
 1353 the Office of Financial Regulation, who may also be known as the
 1354 Commissioner of Financial Regulation. The Office of Financial
 1355 Regulation shall include a Bureau of Financial Investigations,
 1356 which shall function as a criminal justice agency for purposes
 1357 of ss. 943.045-943.08 and shall have a separate budget. The
 1358 bureau may conduct investigations within or outside this state
 1359 as the bureau deems necessary to aid in the enforcement of this
 1360 section. If, during an investigation, the office has reason to
 1361 believe that any criminal law of this state has or may have been
 1362 violated, the office shall refer any records tending to show
 1363 such violation to state or federal law enforcement or
 1364 prosecutorial agencies and shall provide investigative
 1365 assistance to those agencies as required.

1366 3. The Office of Public Counsel, the responsibilities of
 1367 which are set forth in chapter 350. The Public Counsel shall
 1368 perform his or her duties independently.

1369 (b) Organization.—The commission shall establish by rule
 1370 any additional organizational structure of the offices other

PCB ENUS 12-02

ORIGINAL

YEAR

1371 than the Office of Public Counsel. It is the intent of the
 1372 Legislature to provide the commission with the flexibility to
 1373 organize the offices, other than the Office of Public Counsel
 1374 which shall remain independent, in any manner they determine
 1375 appropriate to promote both efficiency and accountability.

1376 (c) Powers.—Commission members shall serve as the agency
 1377 head for purposes of rulemaking under ss. 120.536-120.565 by the
 1378 commission and all subunits of the commission. Each director is
 1379 agency head for purposes of final agency action under chapter
 1380 120 for all areas within the regulatory authority delegated to
 1381 the director's office.

1382 (d) Appointment and qualifications of directors.—The
 1383 Public Counsel shall be appointed pursuant to s. 350.061 and is
 1384 subject to the qualifications provided therein. The commission
 1385 shall appoint or remove the each director of the Office of
 1386 Insurance Regulation and the director of the Office of Financial
 1387 Regulation by a majority vote consisting of at least three
 1388 affirmative votes, with both the Governor and the Chief
 1389 Financial Officer on the prevailing side. The minimum
 1390 qualifications of the directors are as follows:

1391 1. Prior to appointment as director, the Director of the
 1392 Office of Insurance Regulation must have had, within the
 1393 previous 10 years, at least 5 years of responsible private
 1394 sector experience working full time in areas within the scope of
 1395 the subject matter jurisdiction of the Office of Insurance
 1396 Regulation or at least 5 years of experience as a senior
 1397 examiner or other senior employee of a state or federal agency
 1398 having regulatory responsibility over insurers or insurance

PCB ENUS 12-02

ORIGINAL

YEAR

1399 agencies.
 1400 2. Prior to appointment as director, the Director of the
 1401 Office of Financial Regulation must have had, within the
 1402 previous 10 years, at least 5 years of responsible private
 1403 sector experience working full time in areas within the subject
 1404 matter jurisdiction of the Office of Financial Regulation or at
 1405 least 5 years of experience as a senior examiner or other senior
 1406 employee of a state or federal agency having regulatory
 1407 responsibility over financial institutions, finance companies,
 1408 or securities companies.

1409 (e) Administrative support.—The offices shall have a
 1410 sufficient number of attorneys, examiners, investigators, other
 1411 professional personnel to carry out their responsibilities and
 1412 administrative personnel as determined annually in the
 1413 appropriations process. The Department of Financial Services
 1414 shall provide administrative and information systems support to
 1415 the offices.

1416 (f) Records retention schedules.—The commission and the
 1417 offices may destroy general correspondence files and also any
 1418 other records that they deem no longer necessary to preserve in
 1419 accordance with retention schedules and destruction notices
 1420 established under rules of the Division of Library and
 1421 Information Services, records and information management
 1422 program, of the Department of State. Such schedules and notices
 1423 relating to financial records of the commission and offices
 1424 shall be subject to the approval of the Auditor General.

1425 (g) Records storage.—The commission and offices may
 1426 photograph, microphotograph, or reproduce on film such documents

PCB ENUS 12-02

ORIGINAL

YEAR

1427 and records as they may select, in such manner that each page
 1428 will be exposed in exact conformity with the original. After
 1429 reproduction and filing, original documents and records may be
 1430 destroyed in accordance with the provisions of paragraph (f).

1431 Section 13. Subsection (1) of section 350.061, Florida
 1432 Statutes, is amended to read:

1433 350.061 Public Counsel; appointment; vacancy of office;
 1434 oath; restrictions on Public Counsel and his or her employees.-

1435 (1) (a) The Financial Services Commission ~~committee~~
 1436 ~~designated by joint rule of the Legislature or by agreement~~
 1437 ~~between the President of the Senate and the Speaker of the House~~
 1438 ~~of Representatives as the Committee on Public Counsel Oversight~~
 1439 shall appoint a Public Counsel by majority vote, consisting of
 1440 at least three affirmative votes, to represent the general
 1441 public of Florida before the Florida Public Service Commission.
 1442 Appointment of the Public Counsel shall be subject to
 1443 confirmation by the Senate. Until such time as the Senate
 1444 confirms the appointment, the appointee shall perform the
 1445 functions of the office as provided by law.

1446 (b) The Public Counsel shall be an attorney admitted to
 1447 practice before the Florida Supreme Court and shall serve at the
 1448 pleasure of the Financial Services Commission ~~Committee on~~
 1449 ~~Public Counsel Oversight, subject to biennial reconfirmation by~~
 1450 ~~the committee.~~ The Public Counsel shall perform his or her
 1451 duties independently.

1452 (c) Vacancies in the office shall be filled in the same
 1453 manner as the original appointment. The Financial Services
 1454 Commission may remove the Public Counsel by majority vote,

PCB ENUS 12-02

ORIGINAL

YEAR

1455 consisting of at least three affirmative votes. In the event of
 1456 a vacancy, the Financial Services Commission may appoint an
 1457 interim Public Counsel to serve until such time as a new Public
 1458 Counsel is appointed.

1459 Section 14. Section 350.0613, Florida Statutes, is amended
 1460 to read:

1461 350.0613 Public Counsel; employees; budget; receipt of
 1462 pleadings.—

1463 (1) The Public Counsel is authorized to employ clerical,
 1464 technical, and professional personnel that the Public Counsel
 1465 deems to be reasonably necessary for the performance of the
 1466 duties of the office. The Public Counsel shall set the
 1467 compensation for all personnel of the office and shall be
 1468 responsible for the supervision and direction of all such
 1469 personnel. ~~The committee may authorize the Public Counsel to~~
 1470 ~~employ clerical and technical assistants whose qualifications,~~
 1471 ~~duties, and responsibilities the committee shall from time to~~
 1472 ~~time prescribe. The committee may from time to time authorize~~
 1473 ~~retention of~~ The Public Counsel may retain the services of
 1474 additional attorneys or experts to the extent that the best
 1475 interests of the people of the state will be better served
 1476 thereby, including the retention of expert witnesses and other
 1477 technical personnel for participation in contested proceedings
 1478 before the commission.

1479 (2) The Public Counsel is responsible for preparing the
 1480 budget for the office and shall submit the budget to the
 1481 Financial Services Commission.

1482 (3) The Public Service Commission ~~commission~~ shall furnish

PCB ENUS 12-02

ORIGINAL

YEAR

1483 the Public Counsel with copies of the initial pleadings in all
 1484 proceedings before the commission, and if the Public Counsel
 1485 intervenes as a party in any proceeding he or she shall be
 1486 served with copies of all subsequent pleadings, exhibits, and
 1487 prepared testimony, if used. Upon filing notice of intervention,
 1488 the Public Counsel shall serve all interested parties with
 1489 copies of such notice and all of his or her subsequent pleadings
 1490 and exhibits.

1491 Section 15. Section 350.0614, Florida Statutes, is amended
 1492 to read:

1493 350.0614 Public Counsel; compensation and expenses.—

1494 (1) The salary of the Public Counsel shall be set by the
 1495 Financial Services Commission. The salaries and expenses of the
 1496 Public Counsel and his or her employees shall be allocated by
 1497 the Financial Services Commission ~~committee~~ only from moneys
 1498 appropriated to the Public Counsel by the Legislature.

1499 ~~(2) The Legislature declares and determines that the~~
 1500 ~~Public Counsel is under the legislative branch of government~~
 1501 ~~within the intention of the legislation as expressed in chapter~~
 1502 ~~216, and no power shall be in the Executive Office of the~~
 1503 ~~Governor or its successor to release or withhold funds~~
 1504 ~~appropriated to it, but the same shall be available for~~
 1505 ~~expenditure as provided by law and the rules or decisions of the~~
 1506 ~~Committee on Public Counsel Oversight.~~

1507 ~~(3) Neither the Executive Office of the Governor nor the~~
 1508 ~~Department of Management Services or its successor shall have~~
 1509 ~~power to determine the number, or fix the compensation, of the~~
 1510 ~~employees of the Public Counsel or to exercise any manner of~~

PCB ENUS 12-02

ORIGINAL

YEAR

1511 ~~control over them.~~

1512 Section 16. (1) All powers, duties, functions, records,
 1513 offices, personnel, property, pending issues, and existing
 1514 contracts, administrative authority, administrative rules, and
 1515 unexpended balances of appropriations, allocations, and other
 1516 funds relating to the Office of Public Counsel pursuant to s.
 1517 350.061, Florida Statutes, are transferred by a type two
 1518 transfer, as defined in s. 20.06(2), Florida Statutes, from the
 1519 Legislature to the Financial Services Commission. The Office of
 1520 Public Counsel shall be funded from the General Revenue Fund.

1521 (2) Notwithstanding ss. 216.292 and 216.351, Florida
 1522 Statutes, upon approval by the Legislative Budget Commission,
 1523 the Executive Office of the Governor shall transfer funds and
 1524 positions between the Legislature and the Financial Services
 1525 Commission to implement this act.

1526 Section 17. The Department of Agriculture and Consumer
 1527 Services shall conduct a comprehensive statewide forest
 1528 inventory analysis and study, utilizing a Geographic Information
 1529 System, to identify where available biomass is located,
 1530 determine the available biomass resources, and ensure forest
 1531 sustainability within the state. The department shall submit the
 1532 results of the study to the Governor, the President of the
 1533 Senate, and the Speaker of the House of Representatives no later
 1534 than July 1, 2013.

1535 Section 18. The Department of Agriculture and Consumer
 1536 Services, in consultation with the Florida Public Service
 1537 Commission, the Florida Building Commission and the Florida
 1538 Energy Systems Consortium shall develop a clearinghouse of

PCB ENUS 12-02

ORIGINAL

YEAR

1539 information regarding cost savings associated with various
 1540 energy efficiency and conservation measures. The department
 1541 shall post the information on its website by July 1, 2013.

1542 Section 19. The Public Service Commission is directed to
 1543 conduct a study of the potential effects of public charging
 1544 stations and privately-owned electric vehicle charging on both
 1545 energy consumption and the impact on the electric grid in the
 1546 state. The Public Service Commission shall also investigate the
 1547 feasibility of using off-grid solar photovoltaic power as a
 1548 source of electricity for the electric vehicle charging
 1549 stations. The commission shall submit the results of the study
 1550 to the Governor, the President of the Senate, and the Speaker of
 1551 the House of Representatives no later than December 31, 2012.

1552 Section 20. Subject to a specific appropriation, the
 1553 Public Service Commission, in consultation with the Department
 1554 of Agriculture and Consumer Services, shall contract for an
 1555 independent evaluation of the effectiveness of the Florida
 1556 Energy Efficiency and Conservation Act in achieving the
 1557 statutory objectives of reducing and controlling the growth
 1558 rates of electric consumption and reducing the growth rates of
 1559 weather-sensitive peak demand; increasing the overall efficiency
 1560 and cost-effectiveness of electricity and natural gas production
 1561 and use; encouraging further development of demand-side
 1562 renewable energy systems; and conserving expensive resources,
 1563 particularly petroleum fuels.

1564 (1) The evaluation shall include an assessment of:
 1565 (a) The effectiveness of the act in accomplishing
 1566 statutory objectives in a cost-effective manner, taking into

PCB ENUS 12-02

ORIGINAL

YEAR

1567 account short-term and long-term costs and benefits;
 1568 (b) The models and methods used to establish conservation
 1569 goals and programs to meet those goals;
 1570 (c) The strengths and weaknesses of the act relative to
 1571 alternative methods available to achieve statutory objectives;
 1572 (d) The coordination between the goal-setting process in
 1573 s. 366.82 and the determination of need process in s. 403.519,
 1574 including the manner in which supply-side conservation and
 1575 efficiency measures are addressed;
 1576 (e) The potential for time-based rates and advanced
 1577 metering technology, or other mechanisms, to allow customers to
 1578 manage their energy consumption and allow for peak load shaving.
 1579 (2) The findings and recommendations of the evaluation
 1580 shall be submitted to the Governor, the President of the Senate,
 1581 and the Speaker of the House of Representatives no later than
 1582 January 31, 2013.
 1583 Section 21. This act shall take effect July 1, 2012.
 1584