

By the Committee on Budget

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1 A bill to be entitled
2 An act relating to the Florida Energy and Climate
3 Commission; amending ss. 213.053, 220.192, 288.1089,
4 288.9607, 366.82, and 366.92, F.S.; eliminating the
5 Florida Energy and Climate Commission and transferring
6 its duties with respect to a tax credit, an incentive
7 program, and the state's renewable energy policy to
8 the Department of Environmental Protection; repealing
9 s. 377.6015, F.S., relating to the Florida Energy and
10 Climate Commission; amending ss. 377.602, 377.603,
11 377.604, 377.605, 377.606, 377.608, 377.701, 377.703,
12 377.803, 377.804, 377.806, 377.807, 377.808, 377.809,
13 403.44, 526.207, and 1004.648, F.S.; amending ss. 1
14 and 2 of chapter 2010-282, Laws of Florida;
15 transferring the duties of the Florida Energy and
16 Climate Commission with respect to planning and
17 developing the state's energy policy and its duties
18 under the Florida Energy and Climate Protection Act to
19 the Department of Environmental Protection; providing
20 for the transfer of the commission's duties and
21 records, personnel, property, unexpended balances of
22 appropriations, allocations, and other funds,
23 administrative authority, administrative rules,
24 pending issues, and existing contracts to the
25 Department of Environmental Protection; providing an
26 effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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Section 1. Paragraph (y) of subsection (8) of section 213.053, Florida Statutes, is amended, and present paragraphs (z) through (cc) of that subsection are redesignated as paragraphs (y) through (bb), respectively, to read:

213.053 Confidentiality and information sharing.—

(8) Notwithstanding any other provision of this section, the department may provide:

~~(y) Information relative to ss. 212.08(7)(ccc) and 220.192 to the Florida Energy and Climate Commission for use in the conduct of its official business.~~

Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

Section 2. Subsections (3), (4), (5), and (8) of section 220.192, Florida Statutes, are amended to read:

220.192 Renewable energy technologies investment tax credit.—

(3) CORPORATE APPLICATION PROCESS.—Any corporation wishing to obtain tax credits available under this section must submit to the Department of Environmental Protection ~~Florida Energy and Climate Commission~~ an application for tax credit that includes a complete description of all eligible costs for which the corporation is seeking a credit and a description of the total amount of credits sought. The Department of Environmental

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59 Protection ~~Florida Energy and Climate Commission~~ shall make a
60 determination on the eligibility of the applicant for the
61 credits sought and certify the determination to the applicant
62 and the Department of Revenue. The corporation must attach the
63 Department of Environmental Protection's ~~Florida Energy and~~
64 ~~Climate Commission's~~ certification to the tax return on which
65 the credit is claimed. The Department of Environmental
66 Protection is ~~Florida Energy and Climate Commission shall be~~
67 responsible for ensuring that the corporate income tax credits
68 granted in each fiscal year do not exceed the limits provided
69 for in this section. The Department of Environmental Protection
70 may ~~Florida Energy and Climate Commission is authorized to~~ adopt
71 the necessary rules, ~~guidelines,~~ and forms ~~application materials~~
72 for the application process.

73 (4) TAXPAYER APPLICATION PROCESS.—To claim a credit under
74 this section, each taxpayer must apply to the Department of
75 Environmental Protection ~~Florida Energy and Climate Commission~~
76 for an allocation of each type of annual credit by the date
77 established by the Department of Environmental Protection
78 ~~Florida Energy and Climate Commission~~. The application form
79 adopted ~~may be established~~ by the Department of Environmental
80 Protection ~~Florida Energy and Climate Commission~~. The ~~form~~ must
81 include an affidavit from each taxpayer certifying that all
82 information contained in the application, including all records
83 of eligible costs claimed as the basis for the tax credit, are
84 true and correct. Approval of the credits under this section is
85 ~~shall be accomplished~~ on a first-come, first-served basis, based
86 upon the date complete applications are received by the
87 Department of Environmental Protection ~~Florida Energy and~~

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Climate ~~Commission~~. A taxpayer must ~~shall~~ submit only one complete application based upon eligible costs incurred within a particular state fiscal year. Incomplete placeholder applications will not be accepted and will not secure a place in the first-come, first-served application line. If a taxpayer does not receive a tax credit allocation due to the exhaustion of the annual tax credit authorizations, then such taxpayer may reapply in the following year for those eligible costs and will have priority over other applicants for the allocation of credits.

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

(a) In addition to its existing audit and investigation authority, the Department of Revenue may perform any additional financial and technical audits and investigations, including examining the accounts, books, and records of the tax credit applicant, which are necessary to verify the eligible costs included in the tax credit return and to ensure compliance with this section. The Department of Environmental Protection ~~Florida Energy and Climate Commission~~ shall provide technical assistance when requested by the Department of Revenue on any technical audits or examinations performed pursuant to this section.

(b) It is grounds for forfeiture of previously claimed and received tax credits if the Department of Revenue determines, as a result of an audit or examination or from information received from the Department of Environmental Protection ~~Florida Energy and Climate Commission~~, that a taxpayer received tax credits pursuant to this section to which the taxpayer was not entitled. The taxpayer is responsible for returning forfeited tax credits to the Department of Revenue, and such funds shall be paid into

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the General Revenue Fund of the state.

(c) The Department of Environmental Protection ~~Florida Energy and Climate Commission~~ may revoke or modify any written decision granting eligibility for tax credits under this section if it is discovered that the tax credit applicant submitted any false statement, representation, or certification in any application, record, report, plan, or other document filed in an attempt to receive tax credits under this section. The Department of Environmental Protection ~~Florida Energy and Climate Commission~~ shall immediately notify the Department of Revenue of any revoked or modified orders affecting previously granted tax credits. Additionally, the taxpayer must notify the Department of Revenue of any change in its tax credit claimed.

(d) The taxpayer shall file with the Department of Revenue an amended return or such other report as the Department of Revenue prescribes by rule and shall pay any required tax and interest within 60 days after the taxpayer receives notification from the Department of Environmental Protection ~~Florida Energy and Climate Commission~~ that previously approved tax credits have been revoked or modified. If the revocation or modification order is contested, the taxpayer shall file an amended return or other report as provided in this paragraph within 60 days after a final order is issued after proceedings.

(e) A notice of deficiency may be issued by the Department of Revenue at any time within 3 years after the taxpayer receives formal notification from the Department of Environmental Protection ~~Florida Energy and Climate Commission~~ that previously approved tax credits have been revoked or modified. If a taxpayer fails to notify the Department of

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146 Revenue of any changes to its tax credit claimed, a notice of
147 deficiency may be issued at any time.

148 (8) PUBLICATION.—The Department of Environmental Protection
149 ~~Florida Energy and Climate Commission~~ shall determine and
150 publish on a regular basis the amount of available tax credits
151 remaining in each fiscal year.

152 Section 3. Subsection (5) of section 288.1089, Florida
153 Statutes, is amended to read:

154 288.1089 Innovation Incentive Program.—

155 (5) Enterprise Florida, Inc., shall evaluate proposals for
156 all three categories of innovation incentive awards and transmit
157 recommendations for awards to the office. Before making its
158 recommendations on alternative and renewable energy projects,
159 Enterprise Florida, Inc., shall solicit comments and
160 recommendations from the Department of Environmental Protection
161 ~~Florida Energy and Climate Commission~~. For each project, the
162 evaluation and recommendation to the office must include, but
163 need not be limited to:

164 (a) A description of the project, its required facilities,
165 and the associated product, service, or research and development
166 associated with the project.

167 (b) The percentage of match provided for the project.

168 (c) The number of full-time equivalent jobs that will be
169 created by the project, the total estimated average annual wages
170 of such jobs, and the types of business activities and jobs
171 likely to be stimulated by the project.

172 (d) The cumulative investment to be dedicated to the
173 project within 5 years and the total investment expected in the
174 project if more than 5 years.

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(e) The projected economic and fiscal impacts on the local and state economies relative to investment.

(f) A statement of any special impacts the project is expected to stimulate in a particular business sector in the state or regional economy or in the state's universities and community colleges.

(g) A statement of any anticipated or proposed relationships with state universities.

(h) A statement of the role the incentive is expected to play in the decision of the applicant to locate or expand in this state.

(i) A recommendation and explanation of the amount of the award needed to cause the applicant to expand or locate in this state.

(j) A discussion of the efforts and commitments made by the local community in which the project is to be located to induce the applicant's location or expansion, taking into consideration local resources and abilities.

(k) A recommendation for specific performance criteria the applicant would be expected to achieve in order to receive payments from the fund and penalties or sanctions for failure to meet or maintain performance conditions.

(l) Additional evaluative criteria for a research and development facility project, including:

1. A description of the extent to which the project has the potential to serve as catalyst for an emerging or evolving cluster.

2. A description of the extent to which the project has or could have a long-term collaborative research and development

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relationship with one or more universities or community colleges in this state.

3. A description of the existing or projected impact of the project on established clusters or targeted industry sectors.

4. A description of the project's contribution to the diversity and resiliency of the innovation economy of this state.

5. A description of the project's impact on special needs communities, including, but not limited to, rural areas, distressed urban areas, and enterprise zones.

(m) Additional evaluative criteria for alternative and renewable energy proposals, including:

1. The availability of matching funds or other in-kind contributions applied to the total project from an applicant. The department ~~commission~~ shall give greater preference to projects that provide such matching funds or other in-kind contributions.

2. The degree to which the project stimulates in-state capital investment and economic development in metropolitan and rural areas, including the creation of jobs and the future development of a commercial market for renewable energy technologies.

3. The extent to which the proposed project has been demonstrated to be technically feasible based on pilot project demonstrations, laboratory testing, scientific modeling, or engineering or chemical theory that supports the proposal.

4. The degree to which the project incorporates an innovative new technology or an innovative application of an existing technology.

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233 5. The degree to which a project generates thermal,
234 mechanical, or electrical energy by means of a renewable energy
235 resource that has substantial long-term production potential.

236 6. The degree to which a project demonstrates efficient use
237 of energy and material resources.

238 7. The degree to which the project fosters overall
239 understanding and appreciation of renewable energy technologies.

240 8. The ability to administer a complete project.

241 9. Project duration and timeline for expenditures.

242 10. The geographic area in which the project is to be
243 conducted in relation to other projects.

244 11. The degree of public visibility and interaction.

245 Section 4. Subsection (9) of section 288.9607, Florida
246 Statutes, is amended to read:

247 288.9607 Guaranty of bond issues.—

248 (9) The membership of the corporation is authorized and
249 directed to conduct such investigation as it may deem necessary
250 for promulgation of regulations to govern the operation of the
251 guaranty program authorized by this section. The regulations may
252 include such other additional provisions, restrictions, and
253 conditions as the corporation, after its investigation referred
254 to in this subsection, shall determine to be proper to achieve
255 the most effective utilization of the guaranty program. This may
256 include, without limitation, a detailing of the remedies that
257 must be exhausted by bondholders, a trustee acting on their
258 behalf, or other credit provided before calling upon the
259 corporation to perform under its guaranty agreement and the
260 subrogation of other rights of the corporation with reference to
261 the capital project and its operation or the financing in the

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event the corporation makes payment pursuant to the applicable guaranty agreement. The regulations promulgated by the corporation to govern the operation of the guaranty program may contain specific provisions with respect to the rights of the corporation to enter, take over, and manage all financed properties upon default. These regulations shall be submitted by the corporation to the Department of Environmental Protection ~~Florida Energy and Climate Commission~~ for approval.

Section 5. Subsection (5) of section 366.82, Florida Statutes, is amended to read:

366.82 Definition; goals; plans; programs; annual reports; energy audits.—

(5) The Department of Environmental Protection ~~Florida Energy and Climate Commission~~ shall be a party in the proceedings to adopt goals and shall file with the commission comments on the proposed goals, including, but not limited to:

(a) An evaluation of utility load forecasts, including an assessment of alternative supply-side and demand-side resource options.

(b) An analysis of various policy options that can be implemented to achieve a least-cost strategy, including nonutility programs targeted at reducing and controlling the per capita use of electricity in the state.

(c) An analysis of the impact of state and local building codes and appliance efficiency standards on the need for utility-sponsored conservation and energy efficiency measures and programs.

Section 6. Subsection (3) of section 366.92, Florida Statutes, is amended to read:

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366.92 Florida renewable energy policy.—

(3) The commission shall adopt rules for a renewable portfolio standard requiring each provider to supply renewable energy to its customers directly, by procuring, or through renewable energy credits. In developing the RPS rule, the commission shall consult the Department of Environmental Protection ~~and the Florida Energy and Climate Commission~~. The rule shall not be implemented until ratified by the Legislature. The commission shall present a draft rule for legislative consideration by February 1, 2009.

(a) In developing the rule, the commission shall evaluate the current and forecasted levelized cost in cents per kilowatt hour through 2020 and current and forecasted installed capacity in kilowatts for each renewable energy generation method through 2020.

(b) The commission's rule:

1. Shall include methods of managing the cost of compliance with the renewable portfolio standard, whether through direct supply or procurement of renewable power or through the purchase of renewable energy credits. The commission shall have rulemaking authority for providing annual cost recovery and incentive-based adjustments to authorized rates of return on common equity to providers to incentivize renewable energy. Notwithstanding s. 366.91(3) and (4), upon the ratification of the rules developed pursuant to this subsection, the commission may approve projects and power sales agreements with renewable power producers and the sale of renewable energy credits needed to comply with the renewable portfolio standard. In the event of any conflict, this subparagraph shall supersede s. 366.91(3) and

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320 (4). However, nothing in this section shall alter the obligation
321 of each public utility to continuously offer a purchase contract
322 to producers of renewable energy.

323 2. Shall provide for appropriate compliance measures and
324 the conditions under which noncompliance shall be excused due to
325 a determination by the commission that the supply of renewable
326 energy or renewable energy credits was not adequate to satisfy
327 the demand for such energy or that the cost of securing
328 renewable energy or renewable energy credits was cost
329 prohibitive.

330 3. May provide added weight to energy provided by wind and
331 solar photovoltaic over other forms of renewable energy, whether
332 directly supplied or procured or indirectly obtained through the
333 purchase of renewable energy credits.

334 4. Shall determine an appropriate period of time for which
335 renewable energy credits may be used for purposes of compliance
336 with the renewable portfolio standard.

337 5. Shall provide for monitoring of compliance with and
338 enforcement of the requirements of this section.

339 6. Shall ensure that energy credited toward compliance with
340 the requirements of this section is not credited toward any
341 other purpose.

342 7. Shall include procedures to track and account for
343 renewable energy credits, including ownership of renewable
344 energy credits that are derived from a customer-owned renewable
345 energy facility as a result of any action by a customer of an
346 electric power supplier that is independent of a program
347 sponsored by the electric power supplier.

348 8. Shall provide for the conditions and options for the

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349 repeal or alteration of the rule in the event that new
350 provisions of federal law supplant or conflict with the rule.

351 (c) Beginning on April 1 of the year following final
352 adoption of the commission's renewable portfolio standard rule,
353 each provider shall submit a report to the commission describing
354 the steps that have been taken in the previous year and the
355 steps that will be taken in the future to add renewable energy
356 to the provider's energy supply portfolio. The report shall
357 state whether the provider was in compliance with the renewable
358 portfolio standard during the previous year and how it will
359 comply with the renewable portfolio standard in the upcoming
360 year.

361 Section 7. Section 377.6015, Florida Statutes, is repealed.

362 Section 8. Subsection (1) of section 377.602, Florida
363 Statutes, is amended to read:

364 377.602 Definitions.—As used in ss. 377.601-377.608:

365 (1) "Department" ~~"Commission"~~ means the Department of
366 Environmental Protection ~~Florida Energy and Climate Commission.~~

367 Section 9. Section 377.603, Florida Statutes, is amended to
368 read:

369 377.603 Energy data collection; powers and duties of the
370 department ~~commission~~.—

371 (1) The department ~~commission~~ may collect data on the
372 extraction, production, importation, exportation, refinement,
373 transportation, transmission, conversion, storage, sale, or
374 reserves of energy resources in this state in an efficient and
375 expeditious manner.

376 (2) The department ~~commission~~ may prepare periodic reports
377 of energy data it collects.

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(3) The department ~~commission~~ may adopt and promulgate such rules and regulations as are necessary to carry out the provisions of ss. 377.601-377.608. Such rules shall be pursuant to chapter 120.

(4) The department ~~commission~~ shall maintain internal validation procedures to assure the accuracy of information received.

Section 10. Section 377.604, Florida Statutes, is amended to read:

377.604 Required reports.—Every person who produces, imports, exports, refines, transports, transmits, converts, stores, sells, or holds known reserves of any form of energy resources used as fuel shall report to the department ~~commission~~, at the request of and in a manner prescribed by the department ~~commission~~, on forms provided by the department ~~commission~~. Such forms shall be designed in such a manner as to indicate:

(1) The identity of the person or persons making the report.

(2) The quantity of energy resources extracted, produced, imported, exported, refined, transported, transmitted, converted, stored, or sold except at retail.

(3) The quantity of energy resources known to be held in reserve in the state.

(4) The identity of each refinery from which petroleum products have normally been obtained and the type and quantity of products secured from that refinery for sale or resale in this state.

(5) Any other information which the department ~~commission~~

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407 deems proper pursuant to the intent of ss. 377.601-377.608.

408 Section 11. Section 377.605, Florida Statutes, is amended
409 to read:

410 377.605 Use of existing information.—The department
411 ~~commission~~ may utilize to the fullest extent possible any
412 existing energy information already prepared for state or
413 federal agencies. Every state, county, and municipal agency
414 shall cooperate with the department ~~commission~~ and shall submit
415 any information on energy to the department ~~commission~~ upon
416 request.

417 Section 12. Section 377.606, Florida Statutes, is amended
418 to read:

419 377.606 Records of the department ~~commission~~; limits of
420 confidentiality.—The information or records of individual
421 persons, as defined in this section, obtained by the department
422 ~~commission~~ as a result of a report, investigation, or
423 verification required by the department ~~commission~~ shall be open
424 to the public, except such information the disclosure of which
425 would be likely to cause substantial harm to the competitive
426 position of the person providing such information and which is
427 requested to be held confidential by the person providing such
428 information. Such proprietary information is confidential and
429 exempt from the provisions of s. 119.07(1). Information reported
430 by entities other than the department ~~commission~~ in documents or
431 reports open to public inspection shall under no circumstances
432 be classified as confidential by the department ~~commission~~.
433 Divulgence of proprietary information as is requested to be held
434 confidential, except upon order of a court of competent
435 jurisdiction or except to an officer of the state entitled to

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436 receive the same in his or her official capacity, shall be a
437 misdemeanor of the second degree, punishable as provided in ss.
438 775.082 and 775.083. ~~Nothing in~~ This section does not ~~shall be~~
439 ~~construed to~~ prohibit the publication or divulgence by other
440 means of data so classified as to prevent identification of
441 particular accounts or reports made to the department ~~commission~~
442 in compliance with s. 377.603 or to prohibit the disclosure of
443 such information to properly qualified legislative committees.
444 The department ~~commission~~ shall establish a system which permits
445 reasonable access to information developed.

446 Section 13. Section 377.608, Florida Statutes, is amended
447 to read:

448 377.608 Prosecution of cases by state attorney.—The state
449 attorney shall prosecute all cases certified to him or her for
450 prosecution by the department ~~commission~~ immediately upon
451 receipt of the evidence transmitted by the department
452 ~~commission~~, or as soon thereafter as practicable.

453 Section 14. Subsections (1), (2), and (3) of section
454 377.701, Florida Statutes, are amended to read:

455 377.701 Petroleum allocation.—

456 (1) The Department of Environmental Protection ~~Florida~~
457 ~~Energy and Climate Commission~~ shall assume the state's role in
458 petroleum allocation and conservation, including the development
459 of a fair and equitable petroleum plan. The department
460 ~~commission~~ shall constitute the responsible state agency for
461 performing the functions of any federal program delegated to the
462 state, which relates to petroleum supply, demand, and
463 allocation.

464 (2) The department ~~commission~~ shall, in addition to

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465 assuming the duties and responsibilities provided by subsection
466 (1), perform the following:

467 (a) In projecting available supplies of petroleum,
468 coordinate with the Department of Revenue to secure information
469 necessary to assure the sufficiency and accuracy of data
470 submitted by persons affected by any federal fuel allocation
471 program.

472 (b) Require such periodic reports from public and private
473 sources as may be necessary to the fulfillment of its
474 responsibilities under this act. Such reports may include:
475 petroleum use; all sales, including end-user sales, except
476 retail gasoline and retail fuel oil sales; inventories; expected
477 supplies and allocations; and petroleum conservation measures.

478 (c) In cooperation with the Department of Revenue and other
479 relevant state agencies, provide for long-range studies
480 regarding the usage of petroleum in the state in order to:

481 1. Comprehend the consumption of petroleum resources.
482 2. Predict future petroleum demands in relation to
483 available resources.

484 3. Report the results of such studies to the Legislature.

485 (3) For the purpose of determining accuracy of data, all
486 state agencies shall timely provide the department ~~commission~~
487 with petroleum-use information in a format suitable to the needs
488 of the allocation program.

489 Section 15. Section 377.703, Florida Statutes, is amended
490 to read:

491 377.703 Additional functions of the Department of
492 Environmental Protection ~~Florida Energy and Climate Commission.~~

493 (1) LEGISLATIVE INTENT.—Recognizing that energy supply and

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demand questions have become a major area of concern to the state which must be dealt with by effective and well-coordinated state action, it is the intent of the Legislature to promote the efficient, effective, and economical management of energy problems, centralize energy coordination responsibilities, pinpoint responsibility for conducting energy programs, and ensure the accountability of state agencies for the implementation of s. 377.601(2), the state energy policy. It is the specific intent of the Legislature that nothing in this act shall in any way change the powers, duties, and responsibilities assigned by the Florida Electrical Power Plant Siting Act, part II of chapter 403, or the powers, duties, and responsibilities of the Florida Public Service Commission.

(2) DEPARTMENT OF ENVIRONMENTAL PROTECTION ~~FLORIDA ENERGY AND CLIMATE COMMISSION~~; DUTIES.—The department ~~commission~~ shall perform the following functions consistent with the development of a state energy policy:

(a) The department is responsible for the ~~commission shall assume the responsibility for~~ development of an energy emergency contingency plan to respond to serious shortages of primary and secondary energy sources. Upon a finding by the Governor, implementation of any emergency program shall be upon order of the Governor that a particular kind or type of fuel is, or that the occurrence of an event which is reasonably expected within 30 days will make the fuel, in short supply. The department ~~commission~~ shall then respond by instituting the appropriate measures of the contingency plan to meet the given emergency or energy shortage. The Governor may utilize the provisions of s. 252.36(5) to carry out any emergency actions required by a

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serious shortage of energy sources.

(b) The department ~~is commission shall be~~ responsible for performing or coordinating the functions of any federal energy programs delegated to the state, including energy supply, demand, conservation, or allocation.

(c) The department ~~commission~~ shall analyze present and proposed federal energy programs and make recommendations regarding those programs to the Governor and the Legislature.

(d) The department ~~commission~~ shall coordinate efforts to seek federal support or other support for state energy activities, including energy conservation, research, or development, and is ~~shall be~~ responsible for the coordination of multiagency energy conservation programs and plans.

(e) The department ~~commission~~ shall analyze energy data collected and prepare long-range forecasts of energy supply and demand in coordination with the Florida Public Service Commission, which is responsible ~~shall have responsibility~~ for electricity and natural gas forecasts. To this end, the forecasts shall contain:

1. An analysis of the relationship of state economic growth and development to energy supply and demand, including the constraints to economic growth resulting from energy supply constraints.

2. Plans for the development of renewable energy resources and reduction in dependence on depletable energy resources, particularly oil and natural gas, and an analysis of the extent to which renewable energy sources are being utilized in the state.

3. Consideration of alternative scenarios of statewide

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552 energy supply and demand for 5, 10, and 20 years to identify
553 strategies for long-range action, including identification of
554 potential social, economic, and environmental effects.

555 4. An assessment of the state's energy resources, including
556 examination of the availability of commercially developable and
557 imported fuels, and an analysis of anticipated effects on the
558 state's environment and social services resulting from energy
559 resource development activities or from energy supply
560 constraints, or both.

561 (f) The department ~~commission~~ shall submit an annual report
562 to the Governor and the Legislature reflecting its activities
563 and making recommendations of policies for improvement of the
564 state's response to energy supply and demand and its effect on
565 the health, safety, and welfare of the people of Florida. The
566 report shall include a report from the Florida Public Service
567 Commission on electricity and natural gas and information on
568 energy conservation programs conducted and underway in the past
569 year and shall include recommendations for energy conservation
570 programs for the state, including, but not limited to, the
571 following factors:

572 1. Formulation of specific recommendations for improvement
573 in the efficiency of energy utilization in governmental,
574 residential, commercial, industrial, and transportation sectors.

575 2. Collection and dissemination of information relating to
576 energy conservation.

577 3. Development and conduct of educational and training
578 programs relating to energy conservation.

579 4. An analysis of the ways in which state agencies are
580 seeking to implement s. 377.601(2), the state energy policy, and

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581 recommendations for better fulfilling this policy.

582 (g) The department may ~~commission has authority to~~ adopt
583 rules pursuant to ss. 120.536(1) and 120.54 to implement the
584 provisions of this act.

585 (h) The department ~~commission~~ shall promote the development
586 and use of renewable energy resources, in conformance with the
587 provisions of chapter 187 and s. 377.601, by:

588 1. Establishing goals and strategies for increasing the use
589 of solar energy in this state.

590 2. Aiding and promoting the commercialization of solar
591 energy technology, in cooperation with the Florida Solar Energy
592 Center, Enterprise Florida, Inc., and any other federal, state,
593 or local governmental agency which may seek to promote research,
594 development, and demonstration of solar energy equipment and
595 technology.

596 3. Identifying barriers to greater use of solar energy
597 systems in this state, and developing specific recommendations
598 for overcoming identified barriers, with findings and
599 recommendations to be submitted annually in the report to the
600 Governor and Legislature required under paragraph (f).

601 4. In cooperation with ~~the Department of Environmental~~
602 ~~Protection~~, the Department of Transportation, the Department of
603 Community Affairs, Enterprise Florida, Inc., the Florida Solar
604 Energy Center, and the Florida Solar Energy Industries
605 Association, investigating opportunities, pursuant to the
606 National Energy Policy Act of 1992, the Housing and Community
607 Development Act of 1992, and any subsequent federal legislation,
608 for solar electric vehicles and other solar energy
609 manufacturing, distribution, installation, and financing efforts

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610 which will enhance this state's position as the leader in solar
611 energy research, development, and use.

612 5. Undertaking other initiatives to advance the development
613 and use of renewable energy resources in this state.

614
615 In the exercise of its responsibilities under this paragraph,
616 the department ~~commission~~ shall seek the assistance of the solar
617 energy industry in this state and other interested parties and
618 is authorized to enter into contracts, retain professional
619 consulting services, and expend funds appropriated by the
620 Legislature for such purposes.

621 (i) The department ~~commission~~ shall promote energy
622 conservation in all energy use sectors throughout the state and
623 shall constitute the state agency primarily responsible for this
624 function. To this end, the department ~~commission~~ shall
625 coordinate the energy conservation programs of all state
626 agencies and review and comment on the energy conservation
627 programs of all state agencies.

628 (j) The department ~~commission~~ shall serve as the state
629 clearinghouse for indexing and gathering all information related
630 to energy programs in state universities, in private
631 universities, in federal, state, and local government agencies,
632 and in private industry and shall prepare and distribute such
633 information in any manner necessary to inform and advise the
634 citizens of the state of such programs and activities. This
635 shall include developing and maintaining a current index and
636 profile of all research activities, which shall be identified by
637 energy area and may include a summary of the project, the amount
638 and sources of funding, anticipated completion dates, or, in

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639 case of completed research, conclusions, recommendations, and
640 applicability to state government and private sector functions.
641 The department ~~commission~~ shall coordinate, promote, and respond
642 to efforts by all sectors of the economy to seek financial
643 support for energy activities. The department ~~commission~~ shall
644 provide information to consumers regarding the anticipated
645 energy-use and energy-saving characteristics of products and
646 services in coordination with any federal, state, or local
647 governmental agencies as may provide such information to
648 consumers.

649 (k) The department ~~commission~~ shall coordinate energy-
650 related programs of state government, including, but not limited
651 to, the programs provided in this section. To this end, the
652 department ~~commission~~ shall:

653 1. Provide assistance to other state agencies, counties,
654 municipalities, and regional planning agencies to further and
655 promote their energy planning activities.

656 2. Require, in cooperation with the Department of
657 Management Services, all state agencies to operate state-owned
658 and state-leased buildings in accordance with energy
659 conservation standards as adopted by the Department of
660 Management Services. Every 3 months, the Department of
661 Management Services shall furnish the department ~~commission~~ data
662 on agencies' energy consumption and emissions of greenhouse
663 gases in a format prescribed by the department ~~commission~~.

664 3. Promote the development and use of renewable energy
665 resources, energy efficiency technologies, and conservation
666 measures.

667 4. Promote the recovery of energy from wastes, including,

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but not limited to, the use of waste heat, the use of agricultural products as a source of energy, and recycling of manufactured products. Such promotion shall be conducted in conjunction with, and after consultation with, ~~the Department of Environmental Protection and~~ the Florida Public Service Commission where electrical generation or natural gas is involved, and any other relevant federal, state, or local governmental agency having responsibility for resource recovery programs.

(l) The department ~~commission~~ shall develop, coordinate, and promote a comprehensive research plan for state programs. Such plan shall be consistent with state energy policy and shall be updated on a biennial basis.

(m) In recognition of the devastation to the economy of this state and the dangers to the health and welfare of residents of this state caused by severe hurricanes, and the potential for such impacts caused by other natural disasters, the department ~~commission~~ shall include in its energy emergency contingency plan and provide to the Florida Building Commission for inclusion in the Florida Energy Efficiency Code for Building Construction specific provisions to facilitate the use of cost-effective solar energy technologies as emergency remedial and preventive measures for providing electric power, street lighting, and water heating service in the event of electric power outages.

(3) The department ~~commission~~ shall be responsible for the administration of the Coastal Energy Impact Program provided for and described in Pub. L. No. 94-370, 16 U.S.C. s. 1456a.

Section 16. Subsection (2) of section 377.803, Florida

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Statutes, is amended to read:

377.803 Definitions.—As used in ss. 377.801-377.806, the term:

(2) "Department" ~~"Commission"~~ means the Department of Environmental Protection ~~Florida Energy and Climate Commission~~.

Section 17. Subsection (1), paragraph (f) of subsection (2), and subsections (3) through (6) of section 377.804, Florida Statutes, are amended to read:

377.804 Renewable Energy and Energy-Efficient Technologies Grants Program.—

(1) The Renewable Energy and Energy-Efficient Technologies Grants Program is established within the department ~~commission~~ to provide renewable energy matching grants for demonstration, commercialization, research, and development projects relating to renewable energy technologies and innovative technologies that significantly increase energy efficiency for vehicles and commercial buildings.

(2) Matching grants for projects described in subsection (1) may be made to any of the following:

(f) Other qualified persons, as determined by the department ~~commission~~.

(3) The department ~~commission~~ may adopt rules pursuant to ss. 120.536(1) and 120.54 to provide for application requirements, provide for ranking of applications, and administer the awarding of grants under this program.

(4) Factors the department ~~commission~~ shall consider in awarding grants include, but are not limited to:

(a) The availability of matching funds or other in-kind contributions applied to the total project from an applicant.

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726 The department ~~commission~~ shall give greater preference to
727 projects that provide such matching funds or other in-kind
728 contributions.

729 (b) The degree to which the project stimulates in-state
730 capital investment and economic development in metropolitan and
731 rural areas, including the creation of jobs and the future
732 development of a commercial market for renewable energy
733 technologies.

734 (c) The extent to which the proposed project has been
735 demonstrated to be technically feasible based on pilot project
736 demonstrations, laboratory testing, scientific modeling, or
737 engineering or chemical theory that supports the proposal.

738 (d) The degree to which the project incorporates an
739 innovative new technology or an innovative application of an
740 existing technology.

741 (e) The degree to which a project generates thermal,
742 mechanical, or electrical energy by means of a renewable energy
743 resource that has substantial long-term production potential.

744 (f) The degree to which a project demonstrates efficient
745 use of energy and material resources.

746 (g) The degree to which the project fosters overall
747 understanding and appreciation of renewable energy technologies.

748 (h) The ability to administer a complete project.

749 (i) Project duration and timeline for expenditures.

750 (j) The geographic area in which the project is to be
751 conducted in relation to other projects.

752 (k) The degree of public visibility and interaction.

753 (5) The department ~~commission~~ shall solicit the expertise
754 of state agencies, Enterprise Florida, Inc., and state

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universities, and may solicit the expertise of other public and private entities it deems appropriate, in evaluating project proposals. State agencies shall cooperate with the department ~~commission~~ and provide such assistance as requested.

(6) The department ~~commission~~ shall coordinate and actively consult with the Department of Agriculture and Consumer Services during the review and approval process of grants relating to bioenergy projects for renewable energy technology. Factors for consideration in awarding grants may include, but are not limited to, the degree to which:

(a) The project stimulates in-state capital investment and economic development in metropolitan and rural areas, including the creation of jobs and the future development of a commercial market for bioenergy.

(b) The project produces bioenergy from Florida-grown crops or biomass.

(c) The project demonstrates efficient use of energy and material resources.

(d) The project fosters overall understanding and appreciation of bioenergy technologies.

(e) Matching funds and in-kind contributions from an applicant are available.

(f) The project duration and the timeline for expenditures are acceptable.

(g) The project has a reasonable assurance of enhancing the value of agricultural products or will expand agribusiness in the state.

(h) Preliminary market and feasibility research has been conducted by the applicant or others and shows there is a

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reasonable assurance of a potential market.

Section 18. Subsections (1), (6), and (7) of section 377.806, Florida Statutes, are amended to read:

377.806 Solar Energy System Incentives Program.—

(1) PURPOSE.—The Solar Energy System Incentives Program is established within the department ~~commission~~ to provide financial incentives for the purchase and installation of solar energy systems. Any resident of the state who purchases and installs a new solar energy system of 2 kilowatts or larger for a solar photovoltaic system, a solar energy system that provides at least 50 percent of a building's hot water consumption for a solar thermal system, or a solar thermal pool heater, from July 1, 2006, through June 30, 2010, is eligible for a rebate on a portion of the purchase price of that solar energy system.

(6) REBATE AVAILABILITY.—The department ~~commission~~ shall determine and publish on a regular basis the amount of rebate funds remaining in each fiscal year. The total dollar amount of all rebates issued is subject to the total amount of appropriations in any fiscal year for this program. If funds are insufficient during the current fiscal year, any requests for rebates received during that fiscal year may be processed during the following fiscal year. Requests for rebates received in a fiscal year that are processed during the following fiscal year shall be given priority over requests for rebates received during the following fiscal year.

(7) RULES.—The department ~~commission~~ shall adopt rules pursuant to ss. 120.536(1) and 120.54 to develop rebate applications and administer the issuance of rebates.

Section 19. Section 377.807, Florida Statutes, is amended

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to read:

377.807 Energy-efficient appliance rebate program.—

(1) The Department of Environmental Protection may ~~Florida Energy and Climate Commission is authorized to~~ develop and administer a consumer rebate program for residential energy-efficient appliances, consistent with 42 U.S.C. s. 15821 and any federal agency guidance or regulations issued in furtherance of federal law.

(2) The department ~~commission~~ may adopt rules pursuant to ss. 120.536(1) and 120.54 designating eligible appliances, rebate amounts, and the administration of the issuance of rebates. The rules shall be consistent with 42 U.S.C. s. 15821 and any subsequent implementing federal regulations or guidance.

(3) The department may ~~commission is authorized to~~ enter into contracts or memoranda of agreement with other agencies of the state, public-private partnerships, or other arrangements such that the most efficient means of administering consumer rebates can be achieved.

Section 20. Subsections (2) through (5) of section 377.808, Florida Statutes, are amended to read:

377.808 Florida Green Government Grants Act.—

(2) The Department of Environmental Protection ~~Florida Energy and Climate Commission~~ shall use funds specifically appropriated to award grants under this section to assist local governments, including municipalities, counties, and school districts, in the development and implementation of programs that achieve green standards. Green standards shall be determined by the department ~~commission~~ and shall provide for cost-efficient solutions, reducing greenhouse gas emissions,

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improving quality of life, and strengthening the state's economy.

(3) The department ~~commission~~ shall adopt rules pursuant to chapter 120 to administer the grants provided for in this section. In accordance with the rules adopted by the department ~~commission~~ under this section, the department ~~commission~~ may provide grants from funds specifically appropriated for this purpose to local governments for the costs of achieving green standards, including necessary administrative expenses. The rules of the department ~~commission~~ shall:

(a) Designate one or more suitable green government standards frameworks from which local governments may develop a greening government initiative and from which projects may be eligible for funding pursuant to this section.

(b) Require that projects that plan, design, construct, upgrade, or replace facilities reduce greenhouse gas emissions and be cost-effective, environmentally sound, permittable, and implementable.

(c) Require local governments to match state funds with direct project cost sharing or in-kind services.

(d) Provide for a scale of matching requirements for local governments on the basis of population in order to assist rural and undeveloped areas of the state with any financial burden of addressing climate change impacts.

(e) Require grant applications to be submitted on appropriate forms developed and adopted by the department ~~commission~~ with appropriate supporting documentation and require records to be maintained.

(f) Establish a system to determine the relative priority

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of grant applications. The system shall consider greenhouse gas reductions, energy savings and efficiencies, and proven technologies.

(g) Establish requirements for competitive procurement of engineering and construction services, materials, and equipment.

(h) Provide for termination of grants when program requirements are not met.

(4) Each local government is limited to not more than two grant applications during each application period announced by the department ~~commission~~. However, a local government may not have more than three active projects expending grant funds during any state fiscal year.

(5) The department ~~commission~~ shall perform an adequate overview of each grant, which may include technical review, site inspections, disbursement approvals, and auditing to successfully implement this section.

Section 21. Subsection (1) of section 377.809, Florida Statutes, is amended to read:

377.809 Energy Economic Zone Pilot Program.—

(1) The Department of Community Affairs, in consultation with the Department of Transportation, shall implement an Energy Economic Zone Pilot Program for the purpose of developing a model to help communities cultivate green economic development, encourage renewable electric energy generation, manufacture products that contribute to energy conservation and green jobs, and further implement chapter 2008-191, Laws of Florida, relative to discouraging sprawl and developing energy-efficient land use patterns and greenhouse gas reduction strategies. The Office of Tourism, Trade, and Economic Development and the

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Department of Environmental Protection ~~Florida Energy and Climate Commission~~ shall provide technical assistance to the departments in developing and administering the program.

Section 22. Subsections (3) and (6) of section 403.44, Florida Statutes, are amended to read:

403.44 Florida Climate Protection Act.—

(3) The department may adopt rules for a cap-and-trade regulatory program to reduce greenhouse gas emissions from major emitters. When developing the rules, the department shall consult with the ~~Florida Energy and Climate Commission and the~~ Florida Public Service Commission and may consult with the Governor's Action Team for Energy and Climate Change. The department shall not adopt rules until after January 1, 2010. The rules shall not become effective until ratified by the Legislature.

(6) Recognizing that the international, national, and neighboring state policies and the science of climate change will evolve, ~~prior to submitting the proposed rules to the Legislature for consideration,~~ the department shall submit the proposed rules and a report to the ~~Florida Energy and Climate Commission, which shall review the proposed rules and submit a report to~~ the Governor, the President of the Senate, and the Speaker of the House of Representatives, ~~and the department~~. The report shall address:

(a) The overall cost-effectiveness of the proposed cap-and-trade system in combination with other policies and measures in meeting statewide targets.

(b) The administrative burden to the state of implementing, monitoring, and enforcing the program.

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(c) The administrative burden on entities covered under the cap.

(d) The impacts on electricity prices for consumers.

(e) The specific benefits to the state's economy for early adoption of a cap-and-trade system for greenhouse gases in the context of federal climate change legislation and the development of new international compacts.

(f) The specific benefits to the state's economy associated with the creation and sale of emissions offsets from economic sectors outside of the emissions cap.

(g) The potential effects on leakage if economic activity relocates out of the state.

(h) The effectiveness of the combination of measures in meeting identified targets.

(i) The economic implications for near-term periods of short-term and long-term targets specified in the overall policy.

(j) The overall costs and benefits of a cap-and-trade system to the economy of the state.

(k) The impacts on low-income consumers that result from energy price increases.

(l) The consistency of the program with other state and possible federal efforts.

(m) The evaluation of the conditions under which the state should consider linking its trading system to the systems of other states or other countries and how that might be affected by the potential inclusion in the rule of a safety valve.

(n) The timing and changes in the external environment, such as proposals by other states or implementation of a federal

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958 program that would spur reevaluation of the Florida program.

959 (o) The conditions and options for eliminating the Florida
960 program if a federal program were to supplant it.

961 (p) The need for a regular reevaluation of the progress of
962 other emitting regions of the country and of the world, and
963 whether other regions are abating emissions in a commensurate
964 manner.

965 (q) The desirability of and possibilities of broadening the
966 scope of the state's cap-and-trade system at a later date to
967 include more emitting activities as well as sinks in Florida,
968 the conditions that would need to be met to do so, and how the
969 program would encourage these conditions to be met, including
970 developing monitoring and measuring techniques for land use
971 emissions and sinks, regulating sources upstream, and other
972 considerations.

973 Section 23. Section 526.207, Florida Statutes, is amended
974 to read:

975 526.207 Studies and reports.—

976 (1) The Department of Environmental Protection ~~Florida~~
977 ~~Energy and Climate Commission~~ shall conduct a study to evaluate
978 and recommend the life-cycle greenhouse gas emissions associated
979 with all renewable fuels, including, but not limited to,
980 biodiesel, renewable diesel, biobutanol, and ethanol derived
981 from any source. In addition, the department ~~commission~~ shall
982 evaluate and recommend a requirement that all renewable fuels
983 introduced into commerce in the state, as a result of the
984 renewable fuel standard, shall reduce the life-cycle greenhouse
985 gas emissions by an average percentage. The department
986 ~~commission~~ may also evaluate and recommend any benefits

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associated with the creation, banking, transfer, and sale of credits among fuel refiners, blenders, and importers.

(2) The Department of Environmental Protection ~~Florida Energy and Climate Commission~~ shall submit a report containing specific recommendations to the President of the Senate and the Speaker of the House of Representatives no later than December 31, 2010.

Section 24. Subsections (5), (11), (12), and (13) of section 1004.648, Florida Statutes, are amended to read:

1004.648 Florida Energy Systems Consortium.—

(5) The director, whose office ~~is~~ shall be located at the University of Florida, shall report to the Department of Environmental Protection ~~Florida Energy and Climate Commission~~ ~~created pursuant to s. 377.6015.~~

(11) The oversight board, in consultation with the Department of Environmental Protection ~~Florida Energy and Climate Commission~~, shall ensure that the consortium:

(a) Maintains accurate records of any funds received by the consortium.

(b) Meets financial and technical performance expectations, which may include external technical reviews as required.

(12) The steering committee shall consist of the university representatives included in the Centers of Excellence proposals for the Florida Energy Systems Consortium and the Center of Excellence in Ocean Energy Technology-Phase II which were reviewed during the 2007-2008 fiscal year by the Florida Technology, Research, and Scholarship Board created in s. 1004.226(4); a university representative appointed by the President of Florida International University; and the

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1016 Department of Environmental Protection ~~Florida Energy and~~
1017 ~~Climate Commission~~. The steering committee is ~~shall be~~
1018 responsible for establishing and ensuring the success of the
1019 consortium's mission under subsection (9).

1020 (13) By November 1 of each year, the consortium shall
1021 submit an annual report to the Governor, the President of the
1022 Senate, the Speaker of the House of Representatives, and the
1023 Department of Environmental Protection ~~Florida Energy and~~
1024 ~~Climate Commission~~ regarding its activities, including, but not
1025 limited to, education and research related to, and the
1026 development and deployment of, alternative energy technologies.

1027 Section 25. Sections 1 and 2 of chapter 2010-282, Laws of
1028 Florida, are amended to read:

1029 Section 1. (1) As provided in this section and section 2, a
1030 portion of the total amount appropriated in this act shall be
1031 used ~~utilized~~ by the Department of Environmental Protection
1032 ~~Florida Energy and Climate Commission~~ to pay rebates to eligible
1033 applicants who submit an application pursuant to the Florida
1034 ENERGY STAR Residential HVAC Rebate Program administered by the
1035 commission, as approved by the United States Department of
1036 Energy. An applicant is eligible for a rebate under this section
1037 if:

1038 (a) A complete application is submitted to the department
1039 ~~commission~~ on or before November 30, 2010.

1040 (b) The central air conditioner, air source heat pump, or
1041 geothermal heat pump system replacement for which the applicant
1042 is seeking a rebate was purchased from or contracted for
1043 purchase with a Florida-licensed contractor after August 29,
1044 2010, but before September 15, 2010, and fully installed prior

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to submission of the application for a rebate.

(c) The department ~~commission~~ determines that the application complies with this section and any existing agreement with the United States Department of Energy governing the Florida ENERGY STAR Residential HVAC Rebate Program.

(d) The applicant provides the following information to the commission on or before November 30, 2010:

1.a. A copy of the sales receipt indicating a date of purchase after August 29, 2010, but before September 15, 2010, with the make and model number identified and circled along with the name and address of the Florida-licensed contractor who installed the system; or

b. A copy of the contract for the purchase and installation of the system indicating a contract date after August 29, 2010, but before September 15, 2010, and a copy of the sales receipt indicating a date of purchase after August 29, 2010, but on or before November 30, 2010, with the make and model number identified and circled along with the name and address of the Florida-licensed contractor who installed the system.

2. A copy of the mechanical building permit issued by the county or municipality and pulled by the Florida-licensed contractor who installed the system for the residence.

3. A copy of the Air Distribution System Test Report results from a Florida-certified Class 1 energy gauge rater, a Florida-licensed mechanical contractor, or a recognized test and balance agent. The results from the test must indicate the home has no more than 15 percent leakage to the outside as measured by 0.10 Qn.out or less.

4. A copy of the summary of the Manual J program completed

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for the residence to indicate that the proper methodology for sizing the new system was completed.

(2) The Department of Environmental Protection ~~Florida Energy and Climate Commission~~ shall pay a \$1,500 rebate to each consumer who submits an application pursuant to the Florida ENERGY STAR Residential HVAC Rebate Program if the application is approved by the commission in accordance with this act. The department ~~commission~~ shall pay all rebates authorized in this section prior to paying any rebates authorized in section 2.

Section 2. Notwithstanding s. 377.806(6), Florida Statutes, the Department of Environmental Protection ~~Florida Energy and Climate Commission~~ shall utilize up to \$28,902,623, less any amount in excess of \$2,467,244 used to pay rebates pursuant to section 1, to pay a percentage of each unpaid and approved rebate application submitted pursuant to the Solar Energy System Incentives Program established in s. 377.806, Florida Statutes. An applicant is eligible for a rebate under this section if the application submitted complies with s. 377.806, Florida Statutes. The percentage of each approved rebate to be paid shall be derived by dividing the remaining appropriation by the total dollar value of the backlog of final approved solar rebates, pursuant to the authorized limits provided in s. 377.806, Florida Statutes.

Section 26. All records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the Florida Energy and Climate Commission are transferred by a type two transfer, pursuant to s. 20.06(2), Florida Statutes, to the Department of

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1103 Environmental Protection.

1104 Section 27. This act shall take effect July 1, 2011.