



Energy & Utilities Subcommittee

MEETING PACKET

**Tuesday, March 15, 2011
212 Knott Building
8:30 AM – 11:00 AM**

**Dean Cannon
Speaker**

**Clay Ford
Chair**



The Florida House of Representatives

Staff Affairs Committee

Energy & Utilities Subcommittee

Dean Cannon
Speaker

Clay Ford
Chair

AGENDA

March 15, 2011

8:30a.m. – 11:00 a.m.

212 Knott Building (Webster Hall)

Opening Remarks by Chair Ford

Consideration of the following bill:

PCS for HB 223 Water and Wastewater Utilities

Representative Hudson

Workshop of Policy Issues relating to Energy Incentives and Initiatives

- State Energy Policy Goals
- Promotion of Renewable Energy
- Governance of Florida Energy Policy

Closing Remarks by Chair Ford

Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 223 Water and Wastewater Utilities

SPONSOR(S): Energy & Utilities Subcommittee

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Energy & Utilities Subcommittee		Helping <i>CH</i>	Collins <i>JBC</i>

SUMMARY ANALYSIS

Chapter 367, F.S., establishes the authority of the Public Service Commission (PSC) over the rates and service of regulated water and wastewater utilities. A regulated water or wastewater utility may only impose and collect rates and charges approved by the PSC.

The costs of utility infrastructure improvements, together with a return on investment, are recovered from utility customers through rates and charges set by the PSC in "general rate case proceedings." These costs may also be recovered through rates and charges set by the PSC in "limited proceedings", provided that the utility's rate of return is not adjusted in the proceeding.

PCS for HB 223 creates a new mechanism for regulated water and wastewater utilities to fund certain types of capital projects. Specifically, the bill creates s. 367.0819, F.S., to allow a utility to recover, through a surcharge, capital costs related to projects to enhance water quality, fire protection reliability, and long-term system viability. The PSC would determine the prudence of these projects and their costs at the time of the utility's next general rate case. The bill's stated intent is to promote utility investment in system improvement projects.

The surcharge provides a mechanism for utilities to recover the costs (depreciation and return on investment) for each eligible project completed and placed into service between general rate case proceedings. The bill caps the surcharge by limiting it to no more than 8 percent of the utility's total annual revenues for the preceding calendar year. On an annual basis, revenues from the surcharge would be reconciled with costs approved for recovery through the surcharge, with any difference either refunded to customers with interest or recovered from customers over a 12-month period. The bill requires individual notice to affected customers and published notice in the affected areas at the time of the utility's initial filing to request approval of a surcharge.

The bill's impact on state government revenues and expenditures is indeterminate. The PSC estimates it would require 2 FTEs to implement the bill. According to the PSC, there are more than 160 private utility water and wastewater companies in 34 of the 67 Florida counties. The impact on the PSC depends on how many private utilities decide to use the surcharge mechanism. The bill should have no impact on local government revenues or expenditures. The bill may encourage investment by water and wastewater utilities in infrastructure projects. Customers of utilities who opt to use this new mechanism may see more frequent, smaller rate increases between general rate cases.

The effective date of the bill is July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation:

Chapter 367, F.S., establishes the authority of the Public Service Commission (PSC) over the rates and service of regulated water and wastewater utilities.¹ A regulated water or wastewater utility may only impose and collect rates and charges approved by the PSC.²

Pursuant to s. 367.081, F.S., the PSC must set rates that are “just, reasonable, compensatory, and not unfairly discriminatory.”³ In setting rates, the PSC must consider “the value and quality of the service and the cost of providing the service, which shall include, but not be limited to, debt interest; the requirements of the utility for working capital; maintenance, depreciation, tax, and operating expenses incurred in the operation of all property used and useful in the public service; and a fair return on the investment of the utility in property used and useful in the public service.”⁴ In determining whether property is to be “used and useful in the public service,” the PSC must consider whether the property is needed to serve current customers, whether the property is needed to serve customers up to five years after the end of the test year used to set rates,⁵ or whether the utility has presented clear and convincing evidence to justify consideration of property needed to serve customers more than five full years from the end of the test year used to set rates.⁶ The PSC may include such property in the utility’s base rates even if it is acquired or constructed up to 24 months or longer beyond the test year used to set rates.⁷

The PSC may also conduct limited proceedings to address any matter within its jurisdiction, including rate adjustments. However, the PSC may not use a limited proceeding to adjust rates if the effect of the adjustment would be to change a utility’s last authorized rate of return.⁸

Currently, a utility’s infrastructure improvements would be incorporated in rates adopted under either s. 367.081, F.S., or s. 367.0822, F.S.

In its Report No. 08-63, the Office of Program Policy Analysis & Government Accountability (OPPAGA) addressed the “unique financial challenges” of small water and wastewater utilities regulated by the

¹ For purposes of chapter 367, F.S., “a utility” is defined in s. 367.021(12), F.S., as “a water or wastewater utility and, except as provided in s. 367.022, includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation.” Section 367.022, F.S., specifies certain types of entities and activities that are exempt from regulation by the PSC as a utility. These exemptions include, among other things, “[s]ystems owned, operated, managed, or controlled by governmental authorities, including water or wastewater facilities operated by private firms under water or wastewater facility privatization contracts as defined in s. 153.91, and nonprofit corporations formed for the purpose of acting on behalf of a political subdivision with respect to a water or wastewater facility,” “[s]ystems with the capacity or proposed capacity to serve 100 or fewer persons,” and “[n]onprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives.”

² Section 367.081(1), F.S.

³ Section 367.081(2)(a)1., F.S.

⁴ *Id.*

⁵ Pursuant to Rule 25-30.430, Florida Administrative Code, prior to the filing of an application for a general rate increase, a utility must submit to the PSC a written request for approval of a test year, supported by a statement of reasons and justifications showing that the requested test year is representative of utility operations. Expenses and investment in the test year are used to establish a utility’s annual revenue requirement, which is used as the basis for setting rates.

⁶ Section 367.081(2)(a)2., F.S.

⁷ *Id.*

⁸ Section 367.0822, F.S.

PSC.⁹ The OPPAGA report notes that these small utility systems, because of a lack of economies of scale, frequently face financial challenges in maintaining system reliability, operating in a cost-effective manner, retaining an adequate labor pool, sustaining a stable financial position, and complying with regulatory requirements. The report also notes that these small utility systems may be reluctant to file for rate increases due to the time and expense involved in rate proceedings and the desire to keep rates low in light of the fact that, in contrast to some larger utilities, they have fewer customers over which to spread costs. The report suggests that the long-term financial viability and adequate investment in infrastructure may suffer as a result.

The OPPAGA report identifies some existing regulatory tools used to address these issues, including staff-assisted rate cases for small water and wastewater utilities, a price index that all water and wastewater utilities may apply to major categories of operating costs without a hearing, and pass-through rate adjustments that all water and wastewater utilities may employ for specific types of costs without a hearing. Still, the report suggests that the PSC should monitor small water and wastewater utilities to ensure adequate investment in infrastructure and, if deemed necessary, should consider adopting additional regulatory tools. As an example of such a tool, the report discusses a capital improvement surcharge mechanism by which a temporary surcharge would be added to rates to enable expeditious recovery of costs for qualifying investments and expenditures.

Effect of Proposed Changes:

The bill creates a new mechanism for regulated water and wastewater utilities to fund certain types of capital projects. Specifically, the bill creates s. 367.0819, F.S. to allow a utility to recover, through a surcharge, prudently incurred capital costs related to projects to enhance water quality, fire protection, reliability and long-term system viability. The PSC would determine the prudence of these projects and their costs at the time of the utility's next general rate case. The bill's stated intent is to promote utility investment in system improvement projects.

Eligible Projects

For a project to qualify for cost recovery through this new surcharge mechanism it must be a "non-revenue producing project." The bill defines "non-revenue producing project" as "a project that is not constructed or installed for the purpose of serving a new customer." New infrastructure projects and projects to improve existing infrastructure that are designed to serve new customers are not eligible for cost recovery through this surcharge.

The bill provides that costs of a project are eligible to be recovered through the surcharge if the project is used for the production, treatment, transmission, storage, distribution, or provision of potable or recycled water to the public or for the collection, transportation, or disposal of wastewater for the public.

The bill lists examples of eligible projects, which include but are not limited to: water quality improvement projects designed to achieve primary or secondary water standards as determined by the Department of Environmental Protection, the United States Environmental Protection Agency, or any other governmental entity having similar regulatory jurisdiction; wastewater quality improvement projects; main, service line, and valve replacement projects; main relining and rehabilitation projects; fire and flushing hydrant installation and replacement projects; main extension to the eliminate dead ends; interconnection projects; water, wastewater, and reuse meter installation and replacement projects; wastewater collection, replacement, relining and rehabilitation projects; and manhole replacement and rehabilitation projects. The bill provides that onsite manufacturing of liquid chlorine or bleach does not constitute a water or wastewater treatment project eligible for recovery through the surcharge.

For a project to qualify for cost recovery through the new surcharge it must be completed and placed into service after the test year that was used by the PSC to establish a utility's current base rates. Also,

⁹ *The PSC and Legislature Could Consider Several Options to Enhance Services and Consumer Protection*, Office of Program Policy Analysis & Government Accountability, Report No. 08-63, released November 2008.

any project that was approved for cost recovery through a previous rate case is not eligible for cost recovery through the new surcharge.

Notice and Information to Customers

The bill requires that a utility seeking to use the surcharge mechanism must provide notice by mail to each customer in the affected service areas of the initial surcharge tariff filing. The utility also must publish notice of the surcharge filing in a newspaper of general circulation in the affected service areas.

A new surcharge shall appear as a separate line item on each customer's bill and be billed in accordance with the current billing cycle used by the utility. If there is any change in a surcharge, it must be reflected in the first bill to the customer following the change.

Upon the approval of a surcharge, the bill requires a utility to maintain and make available for public inspection a detailed schedule for each completed project, including the plant account number and title, the category of the project, the project name and description, the cost of the project in the month of closing, and the month and year of closing. This information is to be made available during normal business hours at each utility location or on the utility's website.

Surcharge Mechanism

The bill provides that a utility seeking to use the surcharge mechanism must submit, for PSC approval, tariffs establishing a formula for calculation of rates reflecting the surcharge. The bill states that these rates must include cost recovery for depreciation and return on investment for each eligible project. The rate of return on investment for each eligible project must be based on the pre-tax rate of return last authorized by the PSC for the utility. The surcharge established by the proposed formula must be calculated, applied, and recovered in accordance with the utility's last authorized rate structure approved by the PSC. The bill provides that a surcharge tariff shall be approved as a matter of right without hearing within 60 days of filing the surcharge tariff with the commission.

Once an eligible project is complete, the utility, before including the project cost in the surcharge, must file a sworn affirmation as to the accuracy of the figures and calculations upon which the surcharged is based, stating that the change in rates will not exceed the utility's last authorized rate of return on equity. Any person that provides a false statement in the affirmation is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

Pursuant to 367.121, a utility is required to file an annual report. If within 15 months after the filing, it is determined the utility exceeded the range of its last authorized rate of return on equity after the implementation of the surcharge for the year the report is filed, the commission may order the utility to refund, with interest, the difference to the rate payers and adjust the rates accordingly.

The bill provides that the surcharge will be revaluated, as needed, on a quarterly basis by the utility to include the costs of completed eligible projects that have been placed into service. The utility must file supporting data for an increase or decrease in the surcharge and must file a sworn affirmation as detailed above. The affirmation and the data supporting the adjustments must be delivered to the Office of Public Counsel. The adjusted surcharge will take effect, without hearing, 45 days after the supporting data and affirmation are filed with the commission and delivered to the Office of Public Counsel.

The bill provides that the initial tariff establishing the surcharge mechanism, as well as the adjustment to the surcharge, are not subject to s. 367.091 F.S., which outlines procedures currently in place for a utility's request with the PSC to adjust rates.

The revenues collected through the surcharge are subject to an annual reconciliation period of 12 months, from the date the surcharge tariff was approved. Within 30 days of the end of the 12 month reconciliation period, the utility must file with the commission and deliver to the Office of Public Counsel, a reconciliation report and affirmation, as detailed above. The reconciliation report shall compare the revenues collected through the surcharge with the actual eligible costs incurred by the

utility during the reconciliation period. The commission shall have 45 days to administratively approve, without hearing, the reconciliation report. The difference between revenue and costs shall be recovered or refunded as appropriate by the utility, without hearing, as an automatic adjustment to the subsequent surcharge calculation. Revenues that are in excess of system-improvement shall be refunded with interest to customers pursuant to commission rule for water and wastewater utilities.

The surcharge will reset to zero on the effective date that new base rates are approved by the PSC which include the previously recovered costs collected by the utility through use of the surcharge.

The total cumulative amount recovered by a utility utilizing the surcharge shall not exceed 8 percent of the utility's total annual retail water service revenues, and where applicable, 8 percent of the utility's total annual wastewater service revenues for the preceding calendar year. Thus, each year the 8 percent cap will fluctuate with the total amount of water and wastewater service revenues a utility collects.

The commission may review the prudence of all projects subject to the surcharge at the utility's next base rate proceeding following the commission's initial approval of the surcharge. If the commission determines that the costs of a project were not prudently incurred, or that the project was not used and useful to the customers, all revenue collected through the surcharge shall be refunded pursuant to PSC rules.

Impact to Rate Payers

The impact on rate payers is capped at 8 percent of the utility's "total annual retail water service revenues, and where applicable, 8 percent of the utility's total annual wastewater service revenues, for the preceding year." Including the revenues collected through the surcharge in the total annual retail service revenues, could result in a significant increase in rate payer's bills over a short amount of time as the 8 percent cap increases year to year with the collection of surcharge revenues. However, staff has been informed that this is not the sponsor's intent, therefore an amendment has been prepared to clarify that revenues collected through the surcharge cannot be included in a utility's total service revenues.

If surcharge revenues are not included in the total annual retail service revenues, customers will see a more gradual, smaller increase over time in their average bill between rate cases. The cap will fluctuate year to year as a utility's total annual retail service revenue fluctuates based on sales and adjustments to rates currently allowed by the PSC.

B. SECTION DIRECTORY:

Section 1. Creates s. 367.0819, F.S., providing a new mechanism for regulated water and wastewater utilities to fund specified types of projects.

Section 2. Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill's impact on state government revenues is indeterminate. Use of the new surcharge mechanism created in the bill may reduce the frequency of general rate case filings by utilities. According to the PSC, it averages 21 general rate cases per year, with filing fees ranging from \$200 to \$4,500, depending on the type of case and the size of the utility. Twelve of the 21 cases are staff-assisted rate cases for very small utilities, and the associated filing fees range from \$200 to

\$1,000. No filing fee is currently applicable to the surcharge mechanism. It is not clear if the PSC's existing rulemaking authority would allow it to adopt a filing fee for the surcharge mechanism.

2. Expenditures:

While there may be a reduction in general rate cases, the PSC notes that processing the initial and subsequent quarterly surcharge tariff filings will increase staff time to process. Also, the PSC notes it will be required to true-up revenues recovered through the surcharge on an annual basis. The PSC estimates it would need 2 FTEs to implement the bill. According to the PSC, as of December 2008, there are more than 160 investor owned water and wastewater utility companies in 34 of the 67 Florida counties. The total impact to the PSC will depend on how many of these utilities choose to use the surcharge mechanism.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None. Utility systems owned, operated, managed, or controlled by governmental authorities are exempt from regulation by the PSC, pursuant to s. 367.022, F.S., thus this bill would not apply to local government water and wastewater utilities.

2. Expenditures:

None. See comment above.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may encourage investment by water and wastewater utilities in infrastructure projects that enhance water quality, fire protection reliability, and long-term system viability by establishing a surcharge mechanism that allows utilities to avoid filing a general rate case to recover the costs of eligible projects and earn a return on their investment. Customers of utilities who opt to use this new mechanism could see more frequent, but smaller, rate increases associated with the addition of eligible projects.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None provided.

C. DRAFTING ISSUES OR OTHER COMMENTS:

An amendment is being offered by the bill sponsor to clarify that revenues collected through the surcharge cannot be included in a utility's total service revenues.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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29 | 367.0819 Recovery of costs for system improvement
30 | projects.-

31 | (1) (a) In order to promote utility investment in system
32 | improvement projects, the commission shall allow a utility to
33 | recover prudently incurred capital costs related to non-revenue
34 | producing projects to enhance water quality, fire protection
35 | reliability, and long-term system viability through a surcharge
36 | collected pursuant to this section. The costs of existing or new
37 | facilities to serve new customers are not recoverable through
38 | this surcharge.

39 | (b) For purposes of this section, a "non-revenue producing
40 | project" means a project that is not constructed or installed
41 | for the purpose of serving a new customer.

42 | (2) A utility seeking to establish a surcharge pursuant to
43 | this section must:

44 | (a) Submit, for commission approval, the proposed surcharge
45 | tariff establishing a formula for the calculation of rates
46 | reflecting the surcharge, which rates provide for recovery of
47 | depreciation and return on investment for each eligible project.
48 | The return on investment for each eligible project must be based
49 | on the utility's last authorized pre-tax rate of return. The
50 | surcharge must be calculated, applied, and recovered in
51 | accordance with the utility's last authorized rate structure.
52 | Until the surcharge is reset pursuant to subsection (4) (d), the
53 | total cumulative amount of the surcharge revenue recovered by
54 | the utility shall not exceed 8 percent of the utility's total
55 | annual retail water service revenues, and where applicable, 8
56 | percent of the utility's total annual wastewater service

57 | revenues, for the preceding calendar year.

58 | (b) Provide notice by mail of the initial surcharge tariff
 59 | filing to each customer in the affected service areas and
 60 | publish notice of the surcharge filing in a newspaper of general
 61 | circulation in the affected service areas.

62 | (c) Before implementing a surcharge under this section, the
 63 | utility shall file a sworn affirmation as to the accuracy of the
 64 | figures and calculations upon which surcharge or any adjustment
 65 | thereto is based, stating that the change in rates will not
 66 | cause the utility to exceed the range of its last authorized
 67 | rate of return on equity. Whoever makes a false statement in
 68 | the affirmation required hereunder, which statement he or she
 69 | does not believe to be true in regard to any material matter, is
 70 | guilty of a felony of the third degree, punishable as provided
 71 | in s. 775.082, s. 775.083, or s. 775.084.

72 | (d) If, within 15 months after the filing of a utility's
 73 | annual report required by s. 367.121, the commission finds that
 74 | the utility exceeded the range of its last authorized rate of
 75 | return on equity after the implementation of the surcharge
 76 | authorized by this section within the year for which the report
 77 | was filed, the commission may order the utility to refund, with
 78 | interest, the difference to the ratepayers and adjust rates
 79 | accordingly. This provision shall not be construed to require a
 80 | bond or corporate undertaking in order for the utility to
 81 | implement the surcharge.

82 | (3) A surcharge tariff submitted by a utility in compliance
 83 | with the requirements of subsection (2) (a) shall not be subject
 84 | to s. 367.091 and shall be approved as a matter of right without

85 | hearing within 60 days after filing the surcharge tariff with
 86 | the commission.

87 | (4) A surcharge established pursuant to this section shall
 88 | be:

89 | (a) Presented as a separate line item on the customer's
 90 | bill and billed in accordance with the billing cycle in the
 91 | utility's approved tariff. Any changes in the surcharge must be
 92 | reflected on the first bill the customer receives following the
 93 | change of the surcharge.

94 | (b) Revaluated, and if necessary, adjusted, on a quarterly
 95 | basis to reflect the costs of eligible projects placed into
 96 | service. The utility shall file the supporting data to increase
 97 | or reduce the surcharge with the commission for each revaluation
 98 | along with a sworn affirmation required by subsection (2)(c),
 99 | and shall contemporaneously deliver copies of the supporting
 100 | data and the sworn affirmation to the Office of Public Counsel.
 101 | The surcharge adjustment shall not be subject to s. 367.091 and
 102 | shall take effect without hearing 45 days after the supporting
 103 | data and sworn affirmation are filed with the commission and
 104 | delivered to the Office of Public Counsel.

105 | (c) Subject to an annual reconciliation of revenues and
 106 | costs based on a reconciliation period of 12 months, such period
 107 | to begin on the date the surcharge tariff is approved as a
 108 | matter of right pursuant to subsection (3). Within 30 days of
 109 | the end of each reconciliation period, the utility shall file
 110 | with the commission, and deliver to the Office of Public
 111 | Counsel, a reconciliation report which shall compare the actual
 112 | surcharge revenues received and the actual eligible costs

113 incurred by the utility during the prior period along with the
 114 sworn affirmation required by subsection (2)(c). A
 115 reconciliation report filed in accordance with these
 116 requirements shall be administratively approved by the
 117 commission without hearing within 45 days of filing. The
 118 difference between revenue and costs shall be recovered or
 119 refunded, as appropriate, by the utility without hearing as an
 120 automatic adjustment to the subsequent surcharge calculation.
 121 Revenues in excess of system-improvement costs shall be refunded
 122 with interest to customers pursuant to the commission's rule on
 123 interest for water and wastewater utilities.

124 (d) Reset at zero as of the effective date of new base
 125 rates that provide for prospective recovery of the costs that
 126 had previously been recovered under the surcharge. Thereafter,
 127 only the costs of new eligible projects that have not previously
 128 been included in the base rate of the utility shall be reflected
 129 in the surcharge.

130 (5) Recovery of project costs pursuant to this section does
 131 not preclude such costs from being included in base rates in
 132 subsequent rate proceedings. However, a project cost recovered
 133 in base rates may not be recovered through a surcharge
 134 established pursuant to this section.

135 (6) A project is eligible for recovery of costs through the
 136 surcharge if it is:

137 (a) Completed and placed into service after the test year
 138 upon which base rates were last established by the commission
 139 for the utility; and

140 (b) For the construction of non-revenue producing

141 improvement projects that are used for the production,
 142 treatment, transmission, storage, distribution, or provision of
 143 potable or recycled water to the public or for the collection,
 144 transportation, or disposal of wastewater for the public. Such
 145 projects may include, but are not limited to, water quality
 146 improvement projects designed to achieve primary or secondary
 147 water standards as determined by the Department of Environmental
 148 Protection, the United States Environmental Protection Agency,
 149 or any other governmental entity having similar regulatory
 150 jurisdiction; wastewater quality improvement projects; main,
 151 service line, and valve replacement projects; main relining and
 152 rehabilitation projects; fire and flushing hydrant installation
 153 and replacement projects; main extension to eliminate dead ends;
 154 interconnection projects; water, wastewater, and reuse meter
 155 installation and replacement projects; wastewater collection,
 156 replacement, relining, and rehabilitation projects; and manhole
 157 replacement and rehabilitation projects.

158 (7) Water and wastewater treatment includes production of
 159 any sodium solution, excluding sodium hypochlorite, used in
 160 conjunction with the treatment process, but does not include the
 161 onsite manufacturing of liquid chlorine or bleach.

162 (8) Upon approval of the surcharge tariff, the utility
 163 shall maintain and make available for public inspection during
 164 normal business hours at each utility location or on the
 165 utility's website a detailed schedule for each completed
 166 project, including the plant account number and title, the
 167 category of the project, the project name and description, the
 168 cost of the project in the month of closing, and the month and

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169 | year of closing. Notice of the availability of the schedules for
170 | public inspection shall be posted in each office of the utility.

171 | (9) The commission may review the prudence of all projects
172 | subject to the surcharge in the utility's next base rate
173 | proceeding following the commission's initial approval of the
174 | surcharge pursuant to subsection (3). Revenues from such
175 | surcharges are subject to refund if the commission subsequently
176 | determines that the costs of a project were not prudently
177 | incurred or that the project is not used and useful in the
178 | public service, and any such refund shall be made pursuant to
179 | the commission's rule on refunds for water and wastewater
180 | utilities.

181 | Section 2. This act shall take effect July 1, 2011.

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCS Name: PSC for HB 223 (2011)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing PCS: Energy & Utilities
2 Subcommittee

3 Representative(s) Hudson offered the following:

4
5 **Amendment**

6 Remove line 57 and insert the following:
7 revenues, excluding revenue collected through the surcharge, for
8 the preceding calendar year.

State Energy Policy Goals

Section 1. Amends s. 377.610, F.S., to provide a streamlined statement of legislative intent and a prioritized list of energy policy goals for Florida.

Subsection (1) provides a streamlined statement of legislative intent with respect to Florida energy policy. This statement of intent is set forth in broader terms than the existing intent language in the law, but captures most, if not all, of the specific issues addressed in the existing language.

Subsection (2) provides a prioritized list of energy policy goals for Florida.

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Section 1. Section 377.601, Florida Statutes, is amended to read:

377.601 Legislative intent.—

(1) The purpose of the state's energy policy is to ensure an affordable, adequate, and reliable supply of energy for the state in a manner that promotes the health and welfare of the public, promotes sustainable economic growth, and minimizes and mitigates any adverse impacts. The Legislature intends that governance of the state's energy policy be efficiently directed toward achieving this purpose. ~~The Legislature finds that the state's energy security can be increased by lessening dependence on foreign oil; that the impacts of global climate change can be reduced through the reduction of greenhouse gas emissions; and that the implementation of alternative energy technologies can be a source of new jobs and employment opportunities for many Floridians. The Legislature further finds that the state is positioned at the front line against potential impacts of global climate change. Human and economic costs of those impacts can be averted by global actions and, where necessary, adapted to by a concerted effort to make Florida's communities more resilient and less vulnerable to these impacts. In focusing the government's policy and efforts to benefit and protect our state, its citizens, and its resources, the Legislature believes that a single government entity with a specific focus on energy and climate change is both desirable and advantageous. Further, the Legislature finds that energy infrastructure provides the foundation for secure and reliable access to the energy supplies~~

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29 ~~and services on which Florida depends. Therefore, there is~~
 30 ~~significant value to Florida consumers that comes from~~
 31 ~~investment in Florida's energy infrastructure that increases~~
 32 ~~system reliability, enhances energy independence and~~
 33 ~~diversification, stabilizes energy costs, and reduces greenhouse~~
 34 ~~gas emissions.~~

35 (2) In furtherance of this purpose, the state's energy
 36 policy shall be implemented through effective, efficient, and
 37 reliable governance and shall be guided by the following goals
 38 in order of their priority:

- 39 (a) Ensuring an affordable energy supply.
- 40 (b) Ensuring adequate supply and capacity.
- 41 (c) Ensuring a secure and reliable energy supply.
- 42 (d) Minimizing energy cost volatility.
- 43 (e) Minimizing the negative impacts of energy production
 44 on the state's environment, social fabric, and the public health
 45 and welfare.
- 46 (f) Maximizing economic synergies for the state associated
 47 with its energy policy.
- 48 (g) Reducing the net export of energy expenditures.

49 (3) It is further the policy of the state ~~of Florida~~ to:

50 (a) Develop and promote the effective use of energy in the
 51 state, discourage all forms of energy waste, and recognize and
 52 address the potential of global climate change wherever
 53 possible.

54 (b) Play a leading role in developing and instituting
 55 energy management programs aimed at promoting energy
 56 conservation, energy security, and the reduction of greenhouse

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57 | gas emissions.

58 | (c) Include energy considerations in all state, regional,

59 | and local planning.

60 | (d) Utilize and manage effectively energy resources used

61 | within state agencies.

62 | (e) Encourage local governments to include energy

63 | considerations in all planning and to support their work in

64 | promoting energy management programs.

65 | (f) Include the full participation of citizens in the

66 | development and implementation of energy programs.

67 | (g) Consider in its decisions the energy needs of each

68 | economic sector, including residential, industrial, commercial,

69 | agricultural, and governmental uses, and reduce those needs

70 | whenever possible.

71 | (h) Promote energy education and the public dissemination

72 | of information on energy and its environmental, economic, and

73 | social impact.

74 | (i) Encourage the research, development, demonstration,

75 | and application of alternative energy resources, particularly

76 | renewable energy resources.

77 | (j) Consider, in its decisionmaking, the social, economic,

78 | and environmental impacts of energy-related activities,

79 | including the whole-life-cycle impacts of any potential energy

80 | use choices, so that detrimental effects of these activities are

81 | understood and minimized.

82 | (k) Develop and maintain energy emergency preparedness

83 | plans to minimize the effects of an energy shortage within

84 | Florida.

**Promotion of
Renewable Energy**

Promotion of Renewable Energy

Section 1. Creates s. 366.90, F.S., to consolidate the existing statements of intent in ss. 366.91 and 366.92, F.S., related to the development of renewable energy in Florida. The language ties the consolidated statement of intent to the new statement of intent for Florida energy policy provided in s. 377.601, F.S.

Section 2. Amends s. 366.92, F.S., to authorize public utilities to recover the costs to produce or purchase renewable energy used to supply electrical energy to its retail customers, subject to specific terms. The language limits eligible projects to those for which a utility petitions the Public Service Commission (PSC) for cost recovery by July 1, 2015. The language exempts eligible projects from the requirement, where applicable, of obtaining a determination of need from the PSC. This section deletes obsolete language requiring the Public Service Commission to adopt rules for a renewable portfolio standard subject to ratification by the Legislature.

Subsection (2) provides the authority and terms by which public utilities may recover the costs to produce or purchase renewable energy.

Paragraph (a) – Timing of Cost Recovery Requests and Types of Resources Authorized

- Limits eligible projects to those for which a utility petitions the PSC for cost recovery by July 1, 2015.
- Grants each utility the sole discretion to determine the type and technology of the renewable energy resources it intends to use and to determine whether to construct a facility itself, convert an existing fossil fuel facility, or contract for the purchase of renewable energy.
- Requires that at least 20 percent of the capacity for which a provider may recover costs in any calendar year be produced or purchased from renewable energy resources other than solar energy.
- Requires that at least 5 percent of the total energy produced from solar energy resources be from customer-owned renewable generation facilities no greater than 2 megawatts in capacity.

Paragraph (b) – Economic Development

- Provides that if a majority value of the energy-producing components incorporated into a renewable energy project are manufactured or assembled in Florida, the utility is entitled to a rate of return on the project of not less than 50 basis points (.5%) above the top of the range of the utility's last authorized rate of return on equity approved by the PSC.

Paragraph (c) – Cost Cap

- Provides that a utility may annually recover costs up to and in excess of its full avoided cost (i.e., the cost it would have otherwise incurred to generate or purchase the power from another source) if the recovery of costs in excess of its full avoided cost does not exceed, at any time, 2 percent of its retail sales revenues for 2010.

Paragraph (d) – Timing of Eligible Projects

- Provides that cost recovery is limited to new construction or conversion projects commenced on or after July 1, 2011.

Paragraph (e) – Prudence of Eligible Costs

- Provides that costs will be deemed prudent if the utility uses reasonable and customary industry practices in the design, procurement, and construction of the renewable energy project in a cost-effective manner for the type of renewable energy resource selected and appropriate to the location of the facility.

Paragraph (f) – Recoverable Costs

- Specifies the types of costs recoverable.

Paragraph (g) – Information Requirements

- Establishes the types of information that a utility must provide to the PSC in a proceeding to recover costs of renewable energy projects.

Paragraph (h) – Ownership of Renewable Attributes

- Provides that when a utility purchases renewable energy in excess of its avoided costs, the seller must surrender to the utility all renewable attributes of the energy purchased.

Paragraph (i) – Sharing of Revenues from Renewable Attributes

- Requires a utility to share with its customers any revenues gained from any renewable energy credit, carbon credit, or other mechanism that attributes value to the production of renewable energy by crediting at least 75 percent of such revenues to its customers.
- Allows a utility to retain such revenues if they are received by virtue of the purchase of renewable energy from third-party generating facilities in the state that are no larger than 2 megawatts

Paragraph (j) – Need Determination

- Provides that a utility is not required to obtain a determination of need from the PSC for renewable energy projects under this subsection.

Subsection (3) requires each utility, in its 10-year site plan submitted to the PSC, to provide additional information, including:

- The amount of renewable energy resources the utility produces or purchases
- The amount of renewable energy resources the utility plans to produce or purchase over the 10-year planning horizon and how it intends to produce or purchase those resources
- A statement indicating how the production and purchase of renewable energy resources impact the utility's present and future capacity and energy needs

Section 3. Amends the definition of “electrical power plant” in s. 403.503(14), F.S., for purposes of certification under the Florida Electrical Power Plant Siting Act by eliminating all solar electrical generating facilities from the definition. Thus, this section removes the requirement that solar electrical generating facilities obtain certification under the Siting Act.

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Section 1. Section 366.90, Florida Statutes, is created to read:

366.90 Renewable energy for electricity production.-
In furtherance of the energy policy goals established in s. 377.601, the Legislature finds that it is in the public interest to promote the development of renewable energy resources in the state, for purposes of electricity production, through the mechanisms established in ss. 366.91 and 366.92. The Legislature further finds that renewable energy resources have the potential to help diversify fuel types to alleviate the state's growing dependence on natural gas and other fossil fuels for the production of electricity, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make the state a leader in new and innovative technologies.

Section 2. Section 366.92, Florida Statutes, is amended to read:

366.92 Florida renewable energy policy.-
~~(1) It is the intent of the Legislature to promote the development of renewable energy; protect the economic viability of Florida's existing renewable energy facilities; diversify the types of fuel used to generate electricity in Florida; lessen Florida's dependence on natural gas and fuel oil for the production of electricity; minimize the volatility of fuel costs; encourage investment within the state; improve environmental conditions; and, at the same time, minimize the costs of power supply to electric utilities and their customers.~~

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29 (1)~~(2)~~ As used in this section, the term:
 30 ~~(a) "Florida renewable energy resources" means renewable~~
 31 ~~energy, as defined in s. 377.803, that is produced in Florida.~~
 32 (a)~~(b)~~ "Provider" means a "utility" as defined in s.
 33 366.8255(1)(a).
 34 (b)~~(c)~~ "Renewable energy" means renewable energy as
 35 defined in s. 366.91~~(2)~~(d) that is produced in the state.
 36 ~~(d) "Renewable energy credit" or "REC" means a product~~
 37 ~~that represents the unbundled, separable, renewable attribute of~~
 38 ~~renewable energy produced in Florida and is equivalent to 1~~
 39 ~~megawatt-hour of electricity generated by a source of renewable~~
 40 ~~energy located in Florida.~~
 41 ~~(e) "Renewable portfolio standard" or "RPS" means the~~
 42 ~~minimum percentage of total annual retail electricity sales by a~~
 43 ~~provider to consumers in Florida that shall be supplied by~~
 44 ~~renewable energy produced in Florida.~~
 45 ~~(3) The commission shall adopt rules for a renewable~~
 46 ~~portfolio standard requiring each provider to supply renewable~~
 47 ~~energy to its customers directly, by procuring, or through~~
 48 ~~renewable energy credits. In developing the RPS rule, the~~
 49 ~~commission shall consult the Department of Environmental~~
 50 ~~Protection and the Florida Energy and Climate Commission. The~~
 51 ~~rule shall not be implemented until ratified by the Legislature.~~
 52 ~~The commission shall present a draft rule for legislative~~
 53 ~~consideration by February 1, 2009.~~
 54 ~~(a) In developing the rule, the commission shall evaluate~~
 55 ~~the current and forecasted levelized cost in cents per kilowatt~~
 56 ~~hour through 2020 and current and forecasted installed capacity~~

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57 ~~in kilowatts for each renewable energy generation method through~~
 58 ~~2020.~~

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

60 ~~1. Shall include methods of managing the cost of~~
 61 ~~compliance with the renewable portfolio standard, whether~~
 62 ~~through direct supply or procurement of renewable power or~~
 63 ~~through the purchase of renewable energy credits. The commission~~
 64 ~~shall have rulemaking authority for providing annual cost~~
 65 ~~recovery and incentive-based adjustments to authorized rates of~~
 66 ~~return on common equity to providers to incentivize renewable~~
 67 ~~energy. Notwithstanding s. 366.91(3) and (4), upon the~~
 68 ~~ratification of the rules developed pursuant to this subsection,~~
 69 ~~the commission may approve projects and power sales agreements~~
 70 ~~with renewable power producers and the sale of renewable energy~~
 71 ~~credits needed to comply with the renewable portfolio standard.~~
 72 ~~In the event of any conflict, this subparagraph shall supersede~~
 73 ~~s. 366.91(3) and (4). However, nothing in this section shall~~
 74 ~~alter the obligation of each public utility to continuously~~
 75 ~~offer a purchase contract to producers of renewable energy.~~

76 ~~2. Shall provide for appropriate compliance measures and~~
 77 ~~the conditions under which noncompliance shall be excused due to~~
 78 ~~a determination by the commission that the supply of renewable~~
 79 ~~energy or renewable energy credits was not adequate to satisfy~~
 80 ~~the demand for such energy or that the cost of securing~~
 81 ~~renewable energy or renewable energy credits was cost~~
 82 ~~prohibitive.~~

83 ~~3. May provide added weight to energy provided by wind and~~
 84 ~~solar photovoltaic over other forms of renewable energy, whether~~

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85 ~~directly supplied or procured or indirectly obtained through the~~
 86 ~~purchase of renewable energy credits.~~

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

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

92 ~~6. Shall ensure that energy credited toward compliance~~
 93 ~~with the requirements of this section is not credited toward any~~
 94 ~~other purpose.~~

95 ~~7. Shall include procedures to track and account for~~
 96 ~~renewable energy credits, including ownership of renewable~~
 97 ~~energy credits that are derived from a customer-owned renewable~~
 98 ~~energy facility as a result of any action by a customer of an~~
 99 ~~electric power supplier that is independent of a program~~
 100 ~~sponsored by the electric power supplier.~~

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

104 ~~(c) Beginning on April 1 of the year following final~~
 105 ~~adoption of the commission's renewable portfolio standard rule,~~
 106 ~~each provider shall submit a report to the commission describing~~
 107 ~~the steps that have been taken in the previous year and the~~
 108 ~~steps that will be taken in the future to add renewable energy~~
 109 ~~to the provider's energy supply portfolio. The report shall~~
 110 ~~state whether the provider was in compliance with the renewable~~
 111 ~~portfolio standard during the previous year and how it will~~
 112 ~~comply with the renewable portfolio standard in the upcoming~~

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113 | year.
 114 | (2)(4) Subject to the provisions of this subsection ~~In~~
 115 | ~~order to demonstrate the feasibility and viability of clean~~
 116 | ~~energy systems,~~ the commission shall provide for full cost
 117 | recovery under the environmental cost-recovery clause of all
 118 | reasonable and prudent costs incurred by a provider to produce
 119 | or purchase ~~for~~ renewable energy for purposes of supplying
 120 | electrical energy to its retail customers ~~projects that are zero~~
 121 | ~~greenhouse gas emitting at the point of generation, up to a~~
 122 | ~~total of 110 megawatts statewide, and for which the provider has~~
 123 | ~~secured necessary land, zoning permits, and transmission rights~~
 124 | ~~within the state. Such costs shall be deemed reasonable and~~
 125 | ~~prudent for purposes of cost recovery so long as the provider~~
 126 | ~~has used reasonable and customary industry practices in the~~
 127 | ~~design, procurement, and construction of the project in a cost-~~
 128 | ~~effective manner appropriate to the location of the facility.~~
 129 | ~~The provider shall report to the commission as part of the cost-~~
 130 | ~~recovery proceedings the construction costs, in-service costs,~~
 131 | ~~operating and maintenance costs, hourly energy production of the~~
 132 | ~~renewable energy project, and any other information deemed~~
 133 | ~~relevant by the commission. Any provider constructing a clean~~
 134 | ~~energy facility pursuant to this section shall file for cost~~
 135 | ~~recovery no later than July 1, 2009.~~

136 | (a) A provider may petition the commission through July 1,
 137 | 2015, for recovery of costs to produce or purchase renewable
 138 | energy, subject to the cost cap in paragraph (c). The provider
 139 | has sole discretion to determine the type and technology of the
 140 | renewable energy resource that it intends to use. However, at

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141 least 20 percent of the total capacity for which a provider is
 142 permitted to recover costs in any calendar year under this
 143 subsection must be produced or purchased from renewable energy
 144 resources other than solar energy. In addition, at least 5
 145 percent of the total energy produced from solar energy resources
 146 for which a provider is permitted to recover costs in any
 147 calendar year under this subsection must be from customer-owned
 148 renewable generation as defined in s. 366.91 from facilities
 149 that do not exceed 2 megawatts in capacity. A provider must file
 150 with the commission, no later than when the provider files a
 151 petition for cost recovery under this subsection, a schedule of
 152 planned production and purchases for the calendar year in which
 153 cost recovery is requested. If any portion of the capacity
 154 required from nonsolar renewable energy resources is committed
 155 but, for reasons found by the commission to be beyond the
 156 control of the provider, is not available during the calendar
 157 year for which cost recovery is requested, the provider may
 158 continue to recover costs to produce or purchase renewable
 159 energy from solar energy resources if the provider continues in
 160 good faith to pursue the production or purchase of renewable
 161 energy from nonsolar resources. The provider has sole discretion
 162 to determine whether to construct new renewable energy
 163 generating facilities, convert existing fossil fuel generating
 164 facilities to renewable energy generating facilities, or
 165 contract for the purchase of renewable energy from third-party
 166 generating facilities in the state.

167 (b) In addition to the full cost recovery for such
 168 renewable energy projects, a return on equity of at least 50

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169 basis points above the top of the range of the provider's last
 170 authorized rate of return on equity approved by the commission
 171 for energy projects shall be approved and provided for such
 172 renewable energy projects if a majority value of the energy-
 173 producing components incorporated into such projects are
 174 manufactured or assembled in the state.

175 (c) For the production or purchase of renewable energy
 176 under this subsection, a provider may annually recover costs up
 177 to and in excess of its full avoided cost, as defined in s.
 178 366.051 and approved by the commission, if the recovery of costs
 179 in excess of the provider's full avoided cost does not exceed,
 180 at any time, 2 percent of the provider's total revenues from the
 181 retail sale of electricity for calendar year 2010. For purposes
 182 of cost recovery under this subsection, costs shall be computed
 183 using a methodology that, for a renewable energy generating
 184 facility, averages the revenue requirements of the facility over
 185 its economic life and, for a renewable energy purchase, averages
 186 the revenue requirements of the purchase over the life of the
 187 contract.

188 (d) Cost recovery under this subsection is limited to new
 189 construction or conversion projects for which construction is
 190 commenced on or after July 1, 2011, and to purchases made on or
 191 after that date. All renewable energy projects for which costs
 192 are approved by the commission for recovery through the
 193 environmental cost recovery clause before July 1, 2011, are not
 194 subject to or included in the calculation of the cost cap.

195 (e) The costs incurred by a provider to produce or
 196 purchase renewable energy under this subsection are deemed to be

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197 prudent for purposes of cost recovery if the provider uses
 198 reasonable and customary industry practices in the design,
 199 procurement, and construction of the project in a cost-effective
 200 manner for the type of renewable energy resource and appropriate
 201 to the location of the facility.

202 (f) Subject to the cost cap in paragraph (c), the
 203 commission shall allow a provider to recover the costs
 204 associated with the production or purchase of renewable energy
 205 under this subsection as follows:

206 1. For new renewable energy generating facilities, the
 207 commission shall allow recovery of reasonable and prudent costs,
 208 including, but not limited to, the siting, licensing,
 209 engineering, design, permitting, construction, operation, and
 210 maintenance of such facilities, including any applicable taxes
 211 and a return based on the provider's last authorized rate of
 212 return.

213 2. For conversion of existing fossil fuel generating
 214 facilities to renewable energy generating facilities, the
 215 commission shall allow recovery of reasonable and prudent
 216 conversion costs, including the costs of retirement of the
 217 fossil fuel plant that exceed any amounts accrued by the
 218 provider for such purposes through rates previously set by the
 219 commission.

220 3. For purchase of renewable energy from third-party
 221 generating facilities in the state, the commission shall allow
 222 recovery of reasonable and prudent costs associated with the
 223 purchase.

224 (g) In a proceeding to recover costs incurred under this

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225 subsection, a provider must provide the commission all cost
 226 information, hourly energy production information, and other
 227 information deemed relevant by the commission with respect to
 228 each project.

229 (h) When a provider purchases renewable energy under this
 230 subsection at a cost in excess of its full avoided cost, the
 231 seller must surrender to the provider all renewable attributes
 232 of the renewable energy purchased.

233 (i) Revenues derived from any renewable energy credit,
 234 carbon credit, or other mechanism that attributes value to the
 235 production of renewable energy, either existing or hereafter
 236 devised, received by a provider by virtue of the production or
 237 purchase of renewable energy for which cost recovery is approved
 238 under this subsection shall be shared with the provider's
 239 ratepayers such that the ratepayers are credited at least 75
 240 percent of such revenues. However, the provider is not required
 241 to share with its ratepayers any value derived from credits
 242 received by the provider by virtue of the purchase of renewable
 243 energy from a third-party generating facility in the state that
 244 does not exceed 2 megawatts in capacity and that is not a
 245 regulated utility or its unregulated affiliate.

246 (j) Section 403.519 does not apply to a renewable energy
 247 generating facility constructed or converted from an existing
 248 fossil fuel generating facility under this subsection, and the
 249 commission is not required to submit a report for such a project
 250 under s. 403.507(4) (a).

251 (3) Each provider shall, in its 10-year site plan
 252 submitted to the commission pursuant to s. 186.801, provide the

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253 following information:

254 (a) The amount of renewable energy resources the provider
 255 produces or purchases.

256 (b) The amount of renewable energy resources the provider
 257 plans to produce or purchase over the 10-year planning horizon
 258 and the means by which such production or purchases will be
 259 achieved.

260 (c) A statement indicating how the production and purchase
 261 of renewable energy resources impact the provider's present and
 262 future capacity and energy needs.

263 (4)-(5) Each municipal electric utility and rural electric
 264 cooperative shall develop standards for the promotion,
 265 encouragement, and expansion of the use of renewable energy
 266 resources and energy conservation and efficiency measures. On or
 267 before April 1, 2009, and annually thereafter, each municipal
 268 electric utility and electric cooperative shall submit to the
 269 commission a report that identifies such standards.

270 (5)-(6) Nothing in This section and any action taken under
 271 this section may not shall be construed to impede or impair the
 272 terms and conditions of, or serve as a basis for renegotiating
 273 or repricing, an existing contract contracts.

274 (6)-(7) The commission may adopt rules to administer and
 275 implement the provisions of this section.

276 Section 3. Subsection (14) of section 403.503, Florida
 277 Statutes, is amended to read:

278 403.503 Definitions relating to Florida Electrical Power
 279 Plant Siting Act.—As used in this act:

280 (14) "Electrical power plant" means, for the purpose of

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281 certification, any steam ~~or solar~~ electrical generating facility
 282 using any process or fuel, including nuclear materials, except
 283 that this term does not include any steam ~~or solar~~ electrical
 284 generating facility of less than 75 megawatts in capacity or any
 285 solar electrical generating facility of any sized capacity
 286 unless the applicant for such a facility elects to apply for
 287 certification under this act. This term also includes the site;
 288 all associated facilities that will be owned by the applicant
 289 that are physically connected to the site; all associated
 290 facilities that are indirectly connected to the site by other
 291 proposed associated facilities that will be owned by the
 292 applicant; and associated transmission lines that will be owned
 293 by the applicant which connect the electrical power plant to an
 294 existing transmission network or rights-of-way to which the
 295 applicant intends to connect. At the applicant's option, this
 296 term may include any offsite associated facilities that will not
 297 be owned by the applicant; offsite associated facilities that
 298 are owned by the applicant but that are not directly connected
 299 to the site; any proposed terminal or intermediate substations
 300 or substation expansions connected to the associated
 301 transmission line; or new transmission lines, upgrades, or
 302 improvements of an existing transmission line on any portion of
 303 the applicant's electrical transmission system necessary to
 304 support the generation injected into the system from the
 305 proposed electrical power plant.

Governance of Florida Energy Policy

Section 1. Provides for a Type Two Transfer of the Florida Energy and Climate Commission duties, etc., from the Executive Office of the Governor to the Department of Agriculture and Consumers Services.

Section 2. Provides for a Type Two Transfer of the Low-Income Home Energy Assistance Program and the Weatherization Assistance Program from the Department of Community Affairs to the Department of Agriculture and Consumers Services.

Section 3. Reenacts s. 377.601, F.S., regarding Legislative intent and energy policy.

Section 4. Amends s. 377.6015, F.S., relating to the Florida Energy and Climate Commission. Strikes language creating the commission and transfers various authorizations and duties to the department.

Section 5. Amends s. 377.602, F.S.; replaces the Florida Energy and Climate Commission definition with the Department of Agriculture and Consumer Services. Makes conforming changes.

Section 6. Amends s. 377.603, F.S.; conforms statutes regarding energy data collection, rule-making, and preparation of reports.

Section 7. Amends s. 377.604, F.S.; conforms statutes regarding required reports of energy resources used as fuel.

Section 8. Amends s. 377.605, F.S.; conforms statutes regarding use of existing information.

Section 9. Amends s. 377.606, F.S.; conforms statutes regarding records of the department being open to the public, with exceptions.

Section 10. Reenacts 377.607, F.S., for purposes of incorporation of the provisions of this bill.

Section 11. Amends s. 377.608, F.S.; conforms statutes regarding prosecution of cases by the state attorney.

Section 12. Amends s. 377.701, F.S.; conforms statutes regarding the department's role in petroleum allocation and conservation.

Section 13. Amends s. 377.703, F.S.; conforms statutes regarding additional functions of the department.

Section 14. Amends s. 377.801, F.S.; corrects reference to the Florida Energy and Climate Protection Act to include existing appliance rebate statutes.

Section 15. Amends s. 377.802, F.S.; removes obsolete solar rebate language from legislative intent section.

Section 16. Amends s. 377.803, F.S.; replaces Florida Energy and Climate Commission definition with Department of Agriculture and Consumer Services within the Florida Energy and Climate Protection Act. Removes obsolete solar rebate program definitions.

Section 17. Amends s. 377.804, F.S.; conforms statutes regarding the Renewable Energy and Energy-Efficient Technologies Grants Program.

Section 18. Repeals s. 377.806, F.S., relating to the Solar Energy System Incentives Program (state solar rebate program), which expired on June 30, 2010.

Section 19. Amends s. 377.807, F.S.; conforms statutes regarding the Energy-Efficient Appliance Rebate Program.

Section 20. Amends s. 377.808, F.S.; conforms statutes regarding the Florida Green Government Grants Act.

Section 21. Amends s. 377.809, F.S.; conforms statutes regarding the Energy Economic Zone Pilot Program.

Section 22. Amends s. 409.508, F.S.; reassigns administration of the Low-Income Home Energy Assistance Program (LIHEAP) from the Department of Community Affairs to the Department of Agriculture and Consumer Services.

Section 23. Amends s. 409.509, F.S.; reassigns administration of the Weatherization Assistance Program from the Department of Community Affairs to the Department of Agriculture and Consumer Services.

Section 24. Reenacts s. 409.5091, F.S., relating to the Weatherization Assistance Program, for purposes of incorporation of the provisions of this bill.

Section 25. Reenacts s. 409.5092, F.S., relating to the Weatherization Assistance Program, for purposes of incorporation of the provisions of this bill.

Section 26. Reenacts s. 409.5093, F.S., relating to the Weatherization Assistance Program, for purposes of incorporation of the provisions of this bill.

Section 27. Repeals s. 212.08(7)(ccc), F.S., relating to the sales and use tax exemption for equipment, machinery, and other materials used for renewable energy technologies, which expired on July 1, 2010.

Section 28. Amends s. 213.053, F.S.; conforms statutes regarding information-sharing with the Department of Revenue. Removes reference to the sales and use tax exemption for equipment, machinery, and other materials used for renewable energy technologies.

Section 29. Amends s. 220.192, F.S.; conforms statutes regarding the Renewable Energy Technologies Investment Tax Credit Program. [Although the program expired on June 30, 2010, the credits may still be carried forward until December 31, 2012.]

Section 30. Amends s. 288.1089, F.S.; conforms statutes regarding the Innovation Incentive Program.

Section 31. Amends s. 288.9607, F.S.; conforms statutes regarding the federal Section 1705 Loan Guarantee Program.

Section 32. Amends s. 366.82, F.S.; conforms statutes regarding the department's role within the Florida Energy Efficiency and Conservation Act.

Section 33. Amends s. 366.92, F.S.; conforms statutes regarding Florida's renewable energy policy.

Section 34. Amends s. 403.44, F.S.; conforms statutes regarding the Florida Climate Protection Act.

Section 35. Amends s. 570.074, F.S.; renames the Department of Agriculture and Consumer Services' Office of Water Coordination as the Office of Energy and Water.

Section 36. Repeals s. 526.207, F.S., relating to obsolete provisions for a study of life-cycle greenhouse gas emissions associated with renewable fuels.

Section 37. Amends s. 570.954, F.S.; removes obsolete language from the Farm-to-Fuel Initiative provision.

Section 38. Amends s. 1004.648, F.S.; conforms duties of the department regarding the Florida Energy Systems Consortium with the provisions of this bill.

Section 39. Provides an effective date of July 1, 2011.

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1 Section 1. All of the powers, duties, functions, records,
 2 personnel, and property; unexpended balances of appropriations,
 3 allocations, and other funds; administrative authority;
 4 administrative rules; pending issues; and existing contracts of the
 5 Florida Energy and Climate Commission in the Executive Office of
 6 the Governor, are transferred by a type two transfer, pursuant to
 7 s. 20.06(2), Florida Statutes, to the Department of Agriculture and
 8 Consumer Services.

9 Section 2. All of the powers, duties, functions, records,
 10 personnel, and property; unexpended balances of appropriations,
 11 allocations, and other funds; administrative authority;
 12 administrative rules; pending issues; and existing contracts of the
 13 Low-Income Home Energy Assistance Program, authorized under s.
 14 409.508, Florida Statutes, and the Weatherization Assistance
 15 Program, authorized in ss. 409.509-409.5093, Florida Statutes, in
 16 the Department of Community Affairs, are transferred by a type two
 17 transfer, pursuant to s. 20.06(2), Florida Statutes, to the
 18 Department of Agriculture and Consumer Services.

19 Section 3. For the purpose of incorporating the amendment
 20 made by this act to section 377.602, Florida Statutes, in a
 21 reference thereto, Section 377.601, Florida Statutes, is
 22 reenacted to read:

23 377.601 Legislative intent.—

24 (1) The Legislature finds that the state's energy security
 25 can be increased by lessening dependence on foreign oil; that
 26 the impacts of global climate change can be reduced through the
 27 reduction of greenhouse gas emissions; and that the
 28 implementation of alternative energy technologies can be a
 29 source of new jobs and employment opportunities for many

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30 Floridians. The Legislature further finds that the state is
 31 positioned at the front line against potential impacts of global
 32 climate change. Human and economic costs of those impacts can be
 33 averted by global actions and, where necessary, adapted to by a
 34 concerted effort to make Florida's communities more resilient
 35 and less vulnerable to these impacts. In focusing the
 36 government's policy and efforts to benefit and protect our
 37 state, its citizens, and its resources, the Legislature believes
 38 that a single government entity with a specific focus on energy
 39 and climate change is both desirable and advantageous. Further,
 40 the Legislature finds that energy infrastructure provides the
 41 foundation for secure and reliable access to the energy supplies
 42 and services on which Florida depends. Therefore, there is
 43 significant value to Florida consumers that comes from
 44 investment in Florida's energy infrastructure that increases
 45 system reliability, enhances energy independence and
 46 diversification, stabilizes energy costs, and reduces greenhouse
 47 gas emissions.

48 (2) It is the policy of the State of Florida to:

49 (a) Develop and promote the effective use of energy in the
 50 state, discourage all forms of energy waste, and recognize and
 51 address the potential of global climate change wherever
 52 possible.

53 (b) Play a leading role in developing and instituting
 54 energy management programs aimed at promoting energy
 55 conservation, energy security, and the reduction of greenhouse
 56 gas emissions.

57 (c) Include energy considerations in all state, regional,

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58 | and local planning.

59 | (d) Utilize and manage effectively energy resources used
60 | within state agencies.

61 | (e) Encourage local governments to include energy
62 | considerations in all planning and to support their work in
63 | promoting energy management programs.

64 | (f) Include the full participation of citizens in the
65 | development and implementation of energy programs.

66 | (g) Consider in its decisions the energy needs of each
67 | economic sector, including residential, industrial, commercial,
68 | agricultural, and governmental uses, and reduce those needs
69 | whenever possible.

70 | (h) Promote energy education and the public dissemination
71 | of information on energy and its environmental, economic, and
72 | social impact.

73 | (i) Encourage the research, development, demonstration,
74 | and application of alternative energy resources, particularly
75 | renewable energy resources.

76 | (j) Consider, in its decisionmaking, the social, economic,
77 | and environmental impacts of energy-related activities,
78 | including the whole-life-cycle impacts of any potential energy
79 | use choices, so that detrimental effects of these activities are
80 | understood and minimized.

81 | (k) Develop and maintain energy emergency preparedness
82 | plans to minimize the effects of an energy shortage within
83 | Florida.

84 | Section 4. Section 377.6015, Florida Statutes, is amended
85 | to read:

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86 377.6015 Florida Energy and Climate Commission.—

87 ~~(1) The Florida Energy and Climate Commission is created~~
 88 ~~within the Executive Office of the Governor. The commission~~
 89 ~~shall be comprised of nine members appointed by the Governor,~~
 90 ~~the Commissioner of Agriculture, and the Chief Financial~~
 91 ~~Officer.~~

92 ~~(a) The Governor shall appoint one member from three~~
 93 ~~persons nominated by the Florida Public Service Commission~~
 94 ~~Nominating Council, created in s. 350.031, to each of seven~~
 95 ~~seats on the commission. The Commissioner of Agriculture shall~~
 96 ~~appoint one member from three persons nominated by the council~~
 97 ~~to one seat on the commission. The Chief Financial Officer shall~~
 98 ~~appoint one member from three persons nominated by the council~~
 99 ~~to one seat on the commission.~~

100 ~~1. The council shall submit the recommendations to the~~
 101 ~~Governor, the Commissioner of Agriculture, and the Chief~~
 102 ~~Financial Officer by September 1 of those years in which the~~
 103 ~~terms are to begin the following October or within 60 days after~~
 104 ~~a vacancy occurs for any reason other than the expiration of the~~
 105 ~~term. The Governor, the Commissioner of Agriculture, and the~~
 106 ~~Chief Financial Officer may proffer names of persons to be~~
 107 ~~considered for nomination by the council.~~

108 ~~2. The Governor, the Commissioner of Agriculture, and the~~
 109 ~~Chief Financial Officer shall fill a vacancy occurring on the~~
 110 ~~commission by appointment of one of the applicants nominated by~~
 111 ~~the council only after a background investigation of such~~
 112 ~~applicant has been conducted by the Department of Law~~
 113 ~~Enforcement.~~

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114 ~~3. Members shall be appointed to 3-year terms; however, in~~
 115 ~~order to establish staggered terms, for the initial~~
 116 ~~appointments, the Governor shall appoint four members to 3-year~~
 117 ~~terms, two members to 2-year terms, and one member to a 1-year~~
 118 ~~term, and the Commissioner of Agriculture and the Chief~~
 119 ~~Financial Officer shall each appoint one member to a 3-year term~~
 120 ~~and shall appoint a successor when that appointee's term expires~~
 121 ~~in the same manner as the original appointment.~~

122 ~~4. The Governor shall select from the membership of the~~
 123 ~~commission one person to serve as chair.~~

124 ~~5. A vacancy on the commission shall be filled for the~~
 125 ~~unexpired portion of the term in the same manner as the original~~
 126 ~~appointment.~~

127 ~~6. If the Governor, the Commissioner of Agriculture, or~~
 128 ~~the Chief Financial Officer has not made an appointment within~~
 129 ~~30 consecutive calendar days after the receipt of the~~
 130 ~~recommendations, the council shall initiate, in accordance with~~
 131 ~~this section, the nominating process within 30 days.~~

132 ~~7. Each appointment to the commission shall be subject to~~
 133 ~~confirmation by the Senate during the next regular session after~~
 134 ~~the vacancy occurs. If the Senate refuses to confirm or fails to~~
 135 ~~consider the appointment of the Governor, the Commissioner of~~
 136 ~~Agriculture, or the Chief Financial Officer, the council shall~~
 137 ~~initiate, in accordance with this section, the nominating~~
 138 ~~process within 30 days.~~

139 ~~8. The Governor or the Governor's successor may recall an~~
 140 ~~appointee.~~

141 ~~9. Notwithstanding subparagraph 7. and for the initial~~

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142 ~~appointments to the commission only, each initial appointment to~~
 143 ~~the commission is subject to confirmation by the Senate by the~~
 144 ~~2010 Regular Session. If the Senate refuses to confirm or fails~~
 145 ~~to consider an appointment made by the Governor, the~~
 146 ~~Commissioner of Agriculture, or the Chief Financial Officer, the~~
 147 ~~council shall initiate, in accordance with this section, the~~
 148 ~~nominating process within 30 days after the Senate's refusal to~~
 149 ~~confirm or failure to consider such appointment. This~~
 150 ~~subparagraph expires July 1, 2010.~~

151 ~~(b) Members must meet the following qualifications and~~
 152 ~~restrictions:~~

153 ~~1. A member must be an expert in one or more of the~~
 154 ~~following fields: energy, natural resource conservation,~~
 155 ~~economics, engineering, finance, law, transportation and land~~
 156 ~~use, consumer protection, state energy policy, or another field~~
 157 ~~substantially related to the duties and functions of the~~
 158 ~~commission. The commission shall fairly represent the fields~~
 159 ~~specified in this subparagraph.~~

160 ~~2. Each member shall, at the time of appointment and at~~
 161 ~~each commission meeting during his or her term of office,~~
 162 ~~disclose:~~

163 ~~a. Whether he or she has any financial interest, other~~
 164 ~~than ownership of shares in a mutual fund, in any business~~
 165 ~~entity that, directly or indirectly, owns or controls, or is an~~
 166 ~~affiliate or subsidiary of, any business entity that may be~~
 167 ~~affected by the policy recommendations developed by the~~
 168 ~~commission.~~

169 ~~b. Whether he or she is employed by or is engaged in any~~

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170 ~~business activity with any business entity that, directly or~~
 171 ~~indirectly, owns or controls, or is an affiliate or subsidiary~~
 172 ~~of, any business entity that may be affected by the policy~~
 173 ~~recommendations developed by the commission.~~

174 ~~(c) The chair may designate the following ex officio,~~
 175 ~~nonvoting members to provide information and advice to the~~
 176 ~~commission at the request of the chair:~~

177 ~~1. The chair of the Florida Public Service Commission, or~~
 178 ~~his or her designee.~~

179 ~~2. The Public Counsel, or his or her designee.~~

180 ~~3. A representative of the Department of Agriculture and~~
 181 ~~Consumer Services.~~

182 ~~4. A representative of the Department of Financial~~
 183 ~~Services.~~

184 ~~5. A representative of the Department of Environmental~~
 185 ~~Protection.~~

186 ~~6. A representative of the Department of Community~~
 187 ~~Affairs.~~

188 ~~7. A representative of the Board of Governors of the State~~
 189 ~~University System.~~

190 ~~8. A representative of the Department of Transportation.~~

191 ~~(2) Members shall serve without compensation but are~~
 192 ~~entitled to reimbursement for per diem and travel expenses as~~
 193 ~~provided in s. 112.061.~~

194 ~~(3) Meetings of the commission may be held in various~~
 195 ~~locations around the state and at the call of the chair;~~
 196 ~~however, the commission must meet at least six times each year.~~

197 (1)(4) The Department of Agriculture and Consumer Services

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198 | ~~commission~~ may:

199 | (a) Employ staff and counsel as needed in the performance

200 | of its duties.

201 | (b) Prosecute and defend legal actions in its own name.

202 | (c) Form advisory groups consisting of members of the

203 | public to provide information on specific issues.

204 | (2)~~(5)~~ The department ~~commission~~ shall:

205 | (a) Administer the Florida Renewable Energy and Energy-

206 | Efficient Technologies Grants Program pursuant to s. 377.804 to

207 | assure a robust grant portfolio.

208 | (b) Develop policy for requiring grantees to provide

209 | royalty-sharing or licensing agreements with state government

210 | for commercialized products developed under a state grant.

211 | (c) Administer the Florida Green Government Grants Act

212 | pursuant to s. 377.808 and set annual priorities for grants.

213 | (d) Administer the information gathering and reporting

214 | functions pursuant to ss. 377.601-377.608.

215 | (e) Administer petroleum planning and emergency

216 | contingency planning pursuant to ss. 377.701, 377.703, and

217 | 377.704.

218 | (f) Represent Florida in the Southern States Energy

219 | Compact pursuant to ss. 377.71-377.712.

220 | (g) Complete the annual assessment of the efficacy of

221 | Florida's Energy and Climate Change Action Plan, upon completion

222 | by the Governor's Action Team on Energy and Climate Change

223 | pursuant to the Governor's Executive Order 2007-128, and provide

224 | specific recommendations to the Governor and the Legislature

225 | each year to improve results.

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226 (h) Administer the provisions of the Florida Energy and
 227 Climate Protection Act pursuant to ss. 377.801-377.806.

228 (i) Advocate for energy and climate change issues and
 229 provide educational outreach and technical assistance in
 230 cooperation with the state's academic institutions.

231 (j) Be a party in the proceedings to adopt goals and
 232 submit comments to the Public Service Commission pursuant to s.
 233 366.82.

234 (k) Adopt rules pursuant to chapter 120 in order to
 235 implement all powers and duties described in this section.

236 Section 5. Section 377.602, Florida Statutes, is amended
 237 to read:

238 377.602 Definitions.—As used in ss. 377.601-377.608:

239 (1) "Department" means the Department of Agriculture and
 240 Consumer Services ~~"Commission"~~ ~~means the Florida Energy and~~
 241 ~~Climate Commission.~~

242 (2) "Energy resources" includes, but shall not be limited
 243 to:

244 (a) Energy converted from solar radiation, wind, hydraulic
 245 potential, tidal movements, biomass, geothermal sources, and
 246 other energy resources the department ~~commission~~ determines to
 247 be important to the production or supply of energy.

248 (b) Propane, butane, motor gasoline, kerosene, home
 249 heating oil, diesel fuel, other middle distillates, aviation
 250 gasoline, kerosene-type jet fuel, naphtha-type jet fuel,
 251 residual fuels, crude oil, and other petroleum products and
 252 hydrocarbons as may be determined by the department ~~commission~~
 253 to be of importance.

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254 (c) All natural gas, including casinghead gas, all other
 255 hydrocarbons not defined as petroleum products in paragraph (b),
 256 and liquefied petroleum gas as defined in s. 527.01.

257 (d) All types of coal and products derived from its
 258 conversion and used as fuel.

259 (e) All types of nuclear energy, special nuclear material,
 260 and source material, as defined in former s. 290.07.

261 (f) All electrical energy.

262 (3) "Person" means producer, refiner, wholesaler,
 263 marketer, consignee, jobber, distributor, storage operator,
 264 importer, exporter, firm, corporation, broker, cooperative,
 265 public utility as defined in s. 366.02, rural electrification
 266 cooperative, municipality engaged in the business of providing
 267 electricity or other energy resources to the public, pipeline
 268 company, person transporting any energy resources as defined in
 269 subsection (2), and person holding energy reserves for further
 270 production; however, "person" does not include persons
 271 exclusively engaged in the retail sale of petroleum products.

272 Section 6. Section 377.603, Florida Statutes, is amended
 273 to read:

274 377.603 Energy data collection; powers and duties of the
 275 commission.—

276 (1) The department ~~commission~~ may collect data on the
 277 extraction, production, importation, exportation, refinement,
 278 transportation, transmission, conversion, storage, sale, or
 279 reserves of energy resources in this state in an efficient and
 280 expeditious manner.

281 (2) The department ~~commission~~ may prepare periodic reports

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282 of energy data it collects.

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

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

290 Section 7. Section 377.604, Florida Statutes, is amended
 291 to read:

292 377.604 Required reports.—Every person who produces,
 293 imports, exports, refines, transports, transmits, converts,
 294 stores, sells, or holds known reserves of any form of energy
 295 resources used as fuel shall report to the department
 296 ~~commission~~, at the request of and in a manner prescribed by the
 297 commission, on forms provided by the department ~~commission~~. Such
 298 forms shall be designed in such a manner as to indicate:

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

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

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

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

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310 (5) Any other information which the department ~~commission~~
 311 deems proper pursuant to the intent of ss. 377.601-377.608.

312 Section 8. Section 377.605, Florida Statutes, is amended
 313 to read:

314 377.605 Use of existing information.—The department
 315 ~~commission~~ may utilize to the fullest extent possible any
 316 existing energy information already prepared for state or
 317 federal agencies. Every state, county, and municipal agency
 318 shall cooperate with the department ~~commission~~ and shall submit
 319 any information on energy to the department ~~commission~~ upon
 320 request.

321 Section 9. Section 377.606, Florida Statutes, is amended
 322 to read:

323 377.606 Records of the department ~~commission~~; limits of
 324 confidentiality.—The information or records of individual
 325 persons, as defined in this section, obtained by the department
 326 ~~commission~~ as a result of a report, investigation, or
 327 verification required by the department ~~commission~~ shall be open
 328 to the public, except such information the disclosure of which
 329 would be likely to cause substantial harm to the competitive
 330 position of the person providing such information and which is
 331 requested to be held confidential by the person providing such
 332 information. Such proprietary information is confidential and
 333 exempt from the provisions of s. 119.07(1). Information reported
 334 by entities other than the department ~~commission~~ in documents or
 335 reports open to public inspection shall under no circumstances
 336 be classified as confidential by the department ~~commission~~.
 337 Divulgence of proprietary information as is requested to be held

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338 confidential, except upon order of a court of competent
 339 jurisdiction or except to an officer of the state entitled to
 340 receive the same in his or her official capacity, shall be a
 341 misdemeanor of the second degree, punishable as provided in ss.
 342 775.082 and 775.083. Nothing in this section shall be construed
 343 to prohibit the publication or divulgence by other means of data
 344 so classified as to prevent identification of particular
 345 accounts or reports made to the department ~~commission~~ in
 346 compliance with s. 377.603 or to prohibit the disclosure of such
 347 information to properly qualified legislative committees. The
 348 department ~~commission~~ shall establish a system which permits
 349 reasonable access to information developed.

350 Section 10. For the purpose of incorporating the amendment
 351 made by this act to section 377.602, Florida Statutes, in a
 352 reference thereto, Section 377.607, Florida Statutes, is
 353 reenacted to read:

354 377.607 Violations; penalties.—Any person who willfully
 355 fails to submit information as required by ss. 377.601-377.608,
 356 or submits false information, is guilty of a misdemeanor of the
 357 first degree, punishable as provided in ss. 775.082 and 775.083.

358 Section 11. Section 377.608, Florida Statutes, is amended
 359 to read:

360 377.608 Prosecution of cases by state attorney.—The state
 361 attorney shall prosecute all cases certified to him or her for
 362 prosecution by the department ~~commission~~ immediately upon
 363 receipt of the evidence transmitted by the department
 364 ~~commission~~, or as soon thereafter as practicable.

365 Section 12. Section 377.701, Florida Statutes, is amended

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366 to read:

367 377.701 Petroleum allocation.—

368 (1) The Department of Agriculture and Consumer Services
 369 ~~Florida Energy and Climate Commission~~ shall assume the state's
 370 role in petroleum allocation and conservation, including the
 371 development of a fair and equitable petroleum plan. The
 372 department ~~commission~~ shall constitute the responsible state
 373 agency for performing the functions of any federal program
 374 delegated to the state, which relates to petroleum supply,
 375 demand, and allocation.

376 (2) The department ~~commission~~ shall, in addition to
 377 assuming the duties and responsibilities provided by subsection
 378 (1), perform the following:

379 (a) In projecting available supplies of petroleum,
 380 coordinate with the Department of Revenue to secure information
 381 necessary to assure the sufficiency and accuracy of data
 382 submitted by persons affected by any federal fuel allocation
 383 program.

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

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

393 1. Comprehend the consumption of petroleum resources.

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394 2. Predict future petroleum demands in relation to
 395 available resources.

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

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

401 (4) A state employee may not divulge or make known in any
 402 manner any proprietary information acquired under this act if
 403 the disclosure of such information would be likely to cause
 404 substantial harm to the competitive position of the person
 405 providing such information and if the person requests that such
 406 information be held confidential, except in accordance with a
 407 court order or in the publication of statistical information
 408 compiled by methods which do not disclose the identity of
 409 individual suppliers or companies. Such proprietary information
 410 is confidential and exempt from the provisions of s. 119.07(1).
 411 Nothing in this subsection shall be construed to prevent
 412 inspection of reports by the Attorney General, members of the
 413 Legislature, and interested state agencies; however, such
 414 agencies and their employees and members are bound by the
 415 requirements set forth in this subsection.

416 (5) Any person who willfully fails to submit information
 417 required by this act or submits false information or who
 418 violates any provision of this act commits a misdemeanor of the
 419 first degree and shall be punished as provided in ss. 775.082
 420 and 775.083.

421 Section 13. Section 377.703, Florida Statutes, is amended

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422 to read:

423 377.703 Additional functions of the Department of
 424 Agriculture and Consumer Services ~~Florida Energy and Climate~~
 425 ~~Commission.~~—

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

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

443 (a) The department ~~commission~~ shall assume the
 444 responsibility for development of an energy emergency
 445 contingency plan to respond to serious shortages of primary and
 446 secondary energy sources. Upon a finding by the Governor,
 447 implementation of any emergency program shall be upon order of
 448 the Governor that a particular kind or type of fuel is, or that
 449 the occurrence of an event which is reasonably expected within

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450 30 days will make the fuel, in short supply. The department
 451 ~~commission~~ shall then respond by instituting the appropriate
 452 measures of the contingency plan to meet the given emergency or
 453 energy shortage. The Governor may utilize the provisions of s.
 454 252.36(5) to carry out any emergency actions required by a
 455 serious shortage of energy sources.

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

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

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

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

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

477 2. Plans for the development of renewable energy resources

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478 | and reduction in dependence on depletable energy resources,
 479 | particularly oil and natural gas, and an analysis of the extent
 480 | to which renewable energy sources are being utilized in the
 481 | state.

482 | 3. Consideration of alternative scenarios of statewide
 483 | energy supply and demand for 5, 10, and 20 years to identify
 484 | strategies for long-range action, including identification of
 485 | potential social, economic, and environmental effects.

486 | 4. An assessment of the state's energy resources,
 487 | including examination of the availability of commercially
 488 | developable and imported fuels, and an analysis of anticipated
 489 | effects on the state's environment and social services resulting
 490 | from energy resource development activities or from energy
 491 | supply constraints, or both.

492 | (f) The department ~~commission~~ shall submit an annual
 493 | report to the Governor and the Legislature reflecting its
 494 | activities and making recommendations of policies for
 495 | improvement of the state's response to energy supply and demand
 496 | and its effect on the health, safety, and welfare of the people
 497 | of Florida. The report shall include a report from the Florida
 498 | Public Service Commission on electricity and natural gas and
 499 | information on energy conservation programs conducted and
 500 | underway in the past year and shall include recommendations for
 501 | energy conservation programs for the state, including, but not
 502 | limited to, the following factors:

503 | 1. Formulation of specific recommendations for improvement
 504 | in the efficiency of energy utilization in governmental,
 505 | residential, commercial, industrial, and transportation sectors.

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506 2. Collection and dissemination of information relating to
507 energy conservation.

508 3. Development and conduct of educational and training
509 programs relating to energy conservation.

510 4. An analysis of the ways in which state agencies are
511 seeking to implement s. 377.601(2), the state energy policy, and
512 recommendations for better fulfilling this policy.

513 (g) The department ~~commission~~ has authority to adopt rules
514 pursuant to ss. 120.536(1) and 120.54 to implement the
515 provisions of this act.

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

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

522 2. Aiding and promoting the commercialization of solar
523 energy technology, in cooperation with the Florida Solar Energy
524 Center, Enterprise Florida, Inc., and any other federal, state,
525 or local governmental agency which may seek to promote research,
526 development, and demonstration of solar energy equipment and
527 technology.

528 3. Identifying barriers to greater use of solar energy
529 systems in this state, and developing specific recommendations
530 for overcoming identified barriers, with findings and
531 recommendations to be submitted annually in the report to the
532 Governor and Legislature required under paragraph (f).

533 4. In cooperation with the Department of Environmental

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534 Protection, the Department of Transportation, the Department of
 535 Community Affairs, Enterprise Florida, Inc., the Florida Solar
 536 Energy Center, and the Florida Solar Energy Industries
 537 Association, investigating opportunities, pursuant to the
 538 National Energy Policy Act of 1992, the Housing and Community
 539 Development Act of 1992, and any subsequent federal legislation,
 540 for solar electric vehicles and other solar energy
 541 manufacturing, distribution, installation, and financing efforts
 542 which will enhance this state's position as the leader in solar
 543 energy research, development, and use.

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

546
 547 In the exercise of its responsibilities under this paragraph,
 548 the department ~~commission~~ shall seek the assistance of the solar
 549 energy industry in this state and other interested parties and
 550 is authorized to enter into contracts, retain professional
 551 consulting services, and expend funds appropriated by the
 552 Legislature for such purposes.

553 (i) The department ~~commission~~ shall promote energy
 554 conservation in all energy use sectors throughout the state and
 555 shall constitute the state agency primarily responsible for this
 556 function. To this end, the department ~~commission~~ shall
 557 coordinate the energy conservation programs of all state
 558 agencies and review and comment on the energy conservation
 559 programs of all state agencies.

560 (j) The department ~~commission~~ shall serve as the state
 561 clearinghouse for indexing and gathering all information related

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562 | to energy programs in state universities, in private
 563 | universities, in federal, state, and local government agencies,
 564 | and in private industry and shall prepare and distribute such
 565 | information in any manner necessary to inform and advise the
 566 | citizens of the state of such programs and activities. This
 567 | shall include developing and maintaining a current index and
 568 | profile of all research activities, which shall be identified by
 569 | energy area and may include a summary of the project, the amount
 570 | and sources of funding, anticipated completion dates, or, in
 571 | case of completed research, conclusions, recommendations, and
 572 | applicability to state government and private sector functions.
 573 | The department ~~commission~~ shall coordinate, promote, and respond
 574 | to efforts by all sectors of the economy to seek financial
 575 | support for energy activities. The department ~~commission~~ shall
 576 | provide information to consumers regarding the anticipated
 577 | energy-use and energy-saving characteristics of products and
 578 | services in coordination with any federal, state, or local
 579 | governmental agencies as may provide such information to
 580 | consumers.

581 | (k) The department ~~commission~~ shall coordinate energy-
 582 | related programs of state government, including, but not limited
 583 | to, the programs provided in this section. To this end, the
 584 | department ~~commission~~ shall:

585 | 1. Provide assistance to other state agencies, counties,
 586 | municipalities, and regional planning agencies to further and
 587 | promote their energy planning activities.

588 | 2. Require, in cooperation with the Department of
 589 | Management Services, all state agencies to operate state-owned

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590 and state-leased buildings in accordance with energy
 591 conservation standards as adopted by the Department of
 592 Management Services. Every 3 months, the Department of
 593 Management Services shall furnish the department ~~commission~~ data
 594 on agencies' energy consumption and emissions of greenhouse
 595 gases in a format prescribed by the department ~~commission~~.

596 3. Promote the development and use of renewable energy
 597 resources, energy efficiency technologies, and conservation
 598 measures.

599 4. Promote the recovery of energy from wastes, including,
 600 but not limited to, the use of waste heat, the use of
 601 agricultural products as a source of energy, and recycling of
 602 manufactured products. Such promotion shall be conducted in
 603 conjunction with, and after consultation with, the Department of
 604 Environmental Protection and the Florida Public Service
 605 Commission where electrical generation or natural gas is
 606 involved, and any other relevant federal, state, or local
 607 governmental agency having responsibility for resource recovery
 608 programs.

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

613 (m) In recognition of the devastation to the economy of
 614 this state and the dangers to the health and welfare of
 615 residents of this state caused by severe hurricanes, and the
 616 potential for such impacts caused by other natural disasters,
 617 the department ~~commission~~ shall include in its energy emergency

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618 contingency plan and provide to the Florida Building Commission
 619 for inclusion in the Florida Energy Efficiency Code for Building
 620 Construction specific provisions to facilitate the use of cost-
 621 effective solar energy technologies as emergency remedial and
 622 preventive measures for providing electric power, street
 623 lighting, and water heating service in the event of electric
 624 power outages.

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

628 Section 14. Section 377.801, Florida Statutes, is amended
 629 to read:

630 377.801 Short title.—Sections 377.801-377.807 ~~377.806~~ may
 631 be cited as the "Florida Energy and Climate Protection Act."

632 Section 15. Section 377.802, Florida Statutes, is amended
 633 to read:

634 377.802 Purpose.—This act is intended to provide
 635 incentives for Florida's citizens, businesses, school districts,
 636 and local governments to take action to diversify the state's
 637 energy supplies, reduce dependence on foreign oil, and mitigate
 638 the effects of climate change by providing funding for
 639 activities designed to achieve these goals. The grant programs
 640 in this act are intended to stimulate capital investment in and
 641 enhance the market for renewable energy technologies and
 642 technologies intended to diversify Florida's energy supplies,
 643 reduce dependence on foreign oil, and combat or limit climate
 644 change impacts. This act is also intended to provide incentives
 645 for the purchase of energy-efficient appliances ~~and rebates for~~

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646 ~~solar energy equipment installations for residential and~~
 647 ~~commercial buildings.~~

648 Section 16. Section 377.803, Florida Statutes, is amended
 649 to read:

650 377.803 Definitions.—As used in ss. 377.801-377.807
 651 ~~377.806~~, the term:

652 (1) "Act" means the Florida Energy and Climate Protection
 653 Act.

654 (2) "Department" means the Department of Agriculture and
 655 Consumer Services ~~"Commission"~~ means the Florida Energy and
 656 ~~Climate Commission.~~

657 (3) "Person" means an individual, partnership, joint
 658 venture, private or public corporation, association, firm,
 659 public service company, or any other public or private entity.

660 (4) "Renewable energy" means electrical, mechanical, or
 661 thermal energy produced from a method that uses one or more of
 662 the following fuels or energy sources: hydrogen, biomass, as
 663 defined in s. 366.91, solar energy, geothermal energy, wind
 664 energy, ocean energy, waste heat, or hydroelectric power.

665 (5) "Renewable energy technology" means any technology
 666 that generates or utilizes a renewable energy resource.

667 ~~(6) "Solar energy system" means equipment that provides~~
 668 ~~for the collection and use of incident solar energy for water~~
 669 ~~heating, space heating or cooling, or other applications that~~
 670 ~~would normally require a conventional source of energy such as~~
 671 ~~petroleum products, natural gas, or electricity that performs~~
 672 ~~primarily with solar energy. In other systems in which solar~~
 673 ~~energy is used in a supplemental way, only those components that~~

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674 | ~~collect and transfer solar energy shall be included in this~~
 675 | ~~definition.~~

676 | ~~(7) "Solar photovoltaic system" means a device that~~
 677 | ~~converts incident sunlight into electrical current.~~

678 | ~~(8) "Solar thermal system" means a device that traps heat~~
 679 | ~~from incident sunlight in order to heat water.~~

680 | Section 17. Section 377.804, Florida Statutes, is amended
 681 | to read:

682 | 377.804 Renewable Energy and Energy-Efficient Technologies
 683 | Grants Program.—

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

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

693 | (a) Municipalities and county governments.

694 | (b) Established for-profit companies licensed to do
 695 | business in the state.

696 | (c) Universities and colleges in the state.

697 | (d) Utilities located and operating within the state.

698 | (e) Not-for-profit organizations.

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

701 | (3) The department ~~commission~~ may adopt rules pursuant to

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702 ss. 120.536(1) and 120.54 to provide for application
 703 requirements, provide for ranking of applications, and
 704 administer the awarding of grants under this program.

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

707 (a) The availability of matching funds or other in-kind
 708 contributions applied to the total project from an applicant.
 709 The department ~~commission~~ shall give greater preference to
 710 projects that provide such matching funds or other in-kind
 711 contributions.

712 (b) The degree to which the project stimulates in-state
 713 capital investment and economic development in metropolitan and
 714 rural areas, including the creation of jobs and the future
 715 development of a commercial market for renewable energy
 716 technologies.

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

721 (d) The degree to which the project incorporates an
 722 innovative new technology or an innovative application of an
 723 existing technology.

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

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

729 (g) The degree to which the project fosters overall

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730 understanding and appreciation of renewable energy technologies.

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

732 (i) Project duration and timeline for expenditures.

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

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

736 (5) The department ~~commission~~ shall solicit the expertise
737 of state agencies, Enterprise Florida, Inc., and state
738 universities, and may solicit the expertise of other public and
739 private entities it deems appropriate, in evaluating project
740 proposals. State agencies shall cooperate with the department
741 ~~commission~~ and provide such assistance as requested.

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

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

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

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

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

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

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

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

765 (h) Preliminary market and feasibility research has been
766 conducted by the applicant or others and shows there is a
767 reasonable assurance of a potential market.

768 (7) Each grant application shall be accompanied by an
769 affidavit from the applicant attesting to the accuracy of the
770 statements contained in the application.

771 Section 18. Section 377.806, Florida Statutes, is
772 repealed.

773 Section 19. Section 377.807, Florida Statutes, is amended
774 to read:

775 377.807 Energy-efficient appliance rebate program.—

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

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

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

791 Section 20. Section 377.808, Florida Statutes, is amended
 792 to read:

793 377.808 Florida Green Government Grants Act.—

794 (1) This section may be cited as the "Florida Green
 795 Government Grants Act."

796 (2) The Department of Agriculture and Consumer Services
 797 ~~Florida Energy and Climate Commission~~ shall use funds
 798 specifically appropriated to award grants under this section to
 799 assist local governments, including municipalities, counties,
 800 and school districts, in the development and implementation of
 801 programs that achieve green standards. Green standards shall be
 802 determined by the department ~~commission~~ and shall provide for
 803 cost-efficient solutions, reducing greenhouse gas emissions,
 804 improving quality of life, and strengthening the state's
 805 economy.

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

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

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

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

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

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

832 (f) Establish a system to determine the relative priority
 833 of grant applications. The system shall consider greenhouse gas
 834 reductions, energy savings and efficiencies, and proven
 835 technologies.

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

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

840 (4) Each local government is limited to not more than two
 841 grant applications during each application period announced by

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842 the department ~~commission~~. However, a local government may not
 843 have more than three active projects expending grant funds
 844 during any state fiscal year.

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

849 Section 21. Section 377.809, Florida Statutes, is amended
 850 to read:

851 377.809 Energy Economic Zone Pilot Program.—

852 (1) The Department of Community Affairs, in consultation
 853 with the Department of Transportation, shall implement an Energy
 854 Economic Zone Pilot Program for the purpose of developing a
 855 model to help communities cultivate green economic development,
 856 encourage renewable electric energy generation, manufacture
 857 products that contribute to energy conservation and green jobs,
 858 and further implement chapter 2008-191, Laws of Florida,
 859 relative to discouraging sprawl and developing energy-efficient
 860 land use patterns and greenhouse gas reduction strategies. The
 861 Office of Tourism, Trade, and Economic Development and the
 862 Department of Agriculture and Consumer Services ~~Florida Energy~~
 863 ~~and Climate Commission~~ shall provide technical assistance to the
 864 departments in developing and administering the program.

865 (2)(a) The application for a pilot project shall:

866 1. Identify the proposed location of the energy economic
 867 zone, which must be within an adopted urban service area and may
 868 include a county landfill outside the urban service boundary;

869 2. Present a proposed strategic plan for development and

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870 redevelopment in the energy economic zone;
 871 3. Demonstrate consistency of the strategic plan with the
 872 local comprehensive plan or include proposed plan amendments
 873 necessary to achieve consistency; and
 874 4. Identify comprehensive plan amendments that will be
 875 proposed to implement chapter 2008-191, Laws of Florida.
 876 (b) The strategic plan under subparagraph (a)1. must
 877 include mixed-use and form-based standards that integrate
 878 multimodal transportation facilities with land use and
 879 development patterns to reduce reliance on automobiles,
 880 encourage certified green building developments and renewable
 881 energy systems, encourage creation of green jobs, and
 882 demonstrate how local financial and regulatory incentives will
 883 be used in the energy economic zone.
 884 (c) The Department of Community Affairs shall grant at
 885 least one application if the application meets the requirements
 886 of this subsection and the community has demonstrated a prior
 887 commitment to energy conservation, carbon reduction, green
 888 building, and economic development. The Department of Community
 889 Affairs and the Office of Tourism, Trade, and Economic
 890 Development shall provide the pilot community, including
 891 businesses within the energy economic zone, with technical
 892 assistance in identifying and qualifying for eligible grants and
 893 credits in job creation, energy, and other areas.
 894 (3) The Department of Community Affairs, with the
 895 assistance of the Office of Tourism, Trade, and Economic
 896 Development, shall submit an interim report by February 15,
 897 2010, to the Governor, the President of the Senate, and the

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898 Speaker of the House of Representatives regarding the status of
 899 the pilot program. The report shall contain any recommendations
 900 deemed appropriate by the department for statutory changes to
 901 accomplish the goals of the pilot program community, including
 902 whether it would be beneficial to provide financial incentives
 903 similar to those offered to an enterprise zone.

904 (4) If the pilot project is ongoing, the Department of
 905 Community Affairs, with the assistance of the Office of Tourism,
 906 Trade, and Economic Development, shall submit a report to the
 907 Governor, the President of the Senate, and the Speaker of the
 908 House of Representatives by February 15, 2012, evaluating
 909 whether the pilot program has demonstrated success. The report
 910 shall contain recommendations with regard to whether the program
 911 should be expanded for use by other local governments and
 912 whether state policies should be revised to encourage the goals
 913 of the program.

914 Section 22. Section 409.508, Florida Statutes, is amended
 915 to read:

916 409.508 Low-income home energy assistance program.—

917 (1) As used in this section:

918 (a) "Eligible household" means a household eligible for
 919 funds from the Low-income Home Energy Assistance Act of 1981, 42
 920 U.S.C. ss. 8621 et seq.

921 (b) "Home energy" means a source of heating or cooling in
 922 residential dwellings.

923 (c) "Utility" means any person, corporation, partnership,
 924 municipality, cooperative, association, or other legal entity
 925 and its lessees, trustees, or receivers now or hereafter owning,

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926 | operating, managing, or controlling any plant or other facility
 927 | supplying electricity or natural gas to or for the public within
 928 | this state, directly or indirectly, for compensation.

929 | (2) The Department of Agriculture and Consumer Services
 930 | ~~Community Affairs~~ is designated as the state agency to
 931 | administer the Low-income Home Energy Assistance Act of 1981, 42
 932 | U.S.C. ss. 8621 et seq. The Department of Agriculture and
 933 | Consumer Services ~~Community Affairs~~ is authorized to provide
 934 | home energy assistance benefits to eligible households which may
 935 | be in the form of cash, vouchers, certificates, or direct
 936 | payments to electric or natural gas utilities or other energy
 937 | suppliers and operators of low-rent, subsidized housing in
 938 | behalf of eligible households. Priority shall be given to
 939 | eligible households having at least one elderly or handicapped
 940 | individual and to eligible households with the lowest incomes.

941 | (3) Agreements may be established between electric or
 942 | natural gas utility companies, other energy suppliers, the
 943 | Department of Revenue, and the Department of Agriculture and
 944 | Consumer Services ~~Community Affairs~~ for the purpose of providing
 945 | payments to energy suppliers in the form of a credit against
 946 | sales and use taxes due or direct payments to energy suppliers
 947 | for services rendered to low-income, eligible households.

948 | (4) The Department of Agriculture and Consumer Services
 949 | ~~Community Affairs~~ shall adopt rules to carry out the provisions
 950 | of this act.

951 | Section 23. Section 409.509, Florida Statutes, is amended
 952 | to read:

953 | 409.509 Definitions; weatherization of low-income

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954 residences.—As used in this act, the term:

955 (1) "Community action agency" means a private corporation
 956 or public agency established pursuant to the Economic
 957 Opportunity Act of 1964, Pub. L. No. 88-452, which is authorized
 958 to administer funds from federal, state, local, or private
 959 funding entities to assess, design, operate, finance, and
 960 oversee antipoverty programs.

961 (2) "Department" means the Department of Agriculture and
 962 Consumer Services ~~Community Affairs~~.

963 (3) "Energy assessment" means an analysis of a dwelling
 964 unit to determine the need for cost-effective energy
 965 conservation measures as determined by the department.

966 (4) "Household" means an individual or group of
 967 individuals living in a dwelling unit as defined by the
 968 department.

969 (5) "Low income" means household income that is at or
 970 below 125 percent of the federally established poverty level.

971 (6) "Residence" means a dwelling unit as defined by the
 972 department.

973 (7) "Weatherization" means materials or measures and their
 974 installation as defined in the federal Energy Conservation and
 975 Production Act, Pub. L. No. 94-385, which are used to improve
 976 the thermal efficiency of a residence.

977 (8) "Weatherizing agency" means any approved department
 978 grantee that bears the responsibility for ensuring the
 979 performance of weatherization of residences under this act and
 980 has been approved by the department, that was performing
 981 weatherization services as of July 1, 1988, unless such agency

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982 | has withdrawn or lost its designation as a result of failure to
 983 | perform under acceptable contract conditions as determined by
 984 | the department.

985 | Section 24. For the purpose of incorporating the amendment
 986 | made by this act to section 409.509, Florida Statutes, in a
 987 | reference thereto, Section 409.5091, Florida Statutes, is
 988 | reenacted to read:

989 | 409.5091 Department responsible for weatherizing agencies;
 990 | energy assessment.—

991 | (1) The department is responsible for ensuring that
 992 | weatherizing agencies comply with state laws and department
 993 | rules.

994 | (2) Before a residence is weatherized, the department
 995 | shall require that an energy assessment be conducted.

996 | Section 25. For the purpose of incorporating the amendment
 997 | made by this act to section 409.509, Florida Statutes, in a
 998 | reference thereto, Section 409.5092, Florida Statutes, is
 999 | reenacted to read:

1000 | 409.5092 Permission for weatherization; rules.—Before a
 1001 | leased or rented residence is weatherized, written permission
 1002 | for the weatherization shall be obtained from the owner of the
 1003 | residence. The department shall adopt rules to ensure that:

1004 | (1) The benefits of weatherization assistance in
 1005 | connection with a leased or rented residence accrue primarily to
 1006 | low-income tenants.

1007 | (2) As a result of weatherization, the rent on the
 1008 | residence is not increased and the tenant is not evicted for a
 1009 | time period set by the department.

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1010 Section 26. For the purpose of incorporating the amendment
 1011 made by this act to section 409.509, Florida Statutes, in a
 1012 reference thereto, Section 409.5093, Florida Statutes, is
 1013 reenacted to read:

1014 409.5093 Replacement agency.—If any area of the state has
 1015 no designated weatherization agency as a result of withdrawal or
 1016 loss of designation by departmental action, a replacement agency
 1017 or agencies may be selected following a process delineated by
 1018 federal and state law, regulations, and rules.

1019 Section 27. Paragraph (ccc) of subsection (7) of section
 1020 212.08, Florida Statutes, is repealed.

1021 Section 28. Paragraph (y) of subsection (8) of section
 1022 213.053, Florida Statutes, is amended to read:

1023 213.053 Confidentiality and information sharing.—

1024 (8) Notwithstanding any other provision of this section,
 1025 the department may provide:

1026 (y) Information relative to ~~ss. 212.08(7)(ccc) and 220.192~~
 1027 to the Department of Agriculture and Consumer Services Florida
 1028 ~~Energy and Climate Commission~~ for use in the conduct of its
 1029 official business.

1030
 1031 Disclosure of information under this subsection shall be
 1032 pursuant to a written agreement between the executive director
 1033 and the agency. Such agencies, governmental or nongovernmental,
 1034 shall be bound by the same requirements of confidentiality as
 1035 the Department of Revenue. Breach of confidentiality is a
 1036 misdemeanor of the first degree, punishable as provided by s.
 1037 775.082 or s. 775.083.

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1038 Section 29. Subsections (3), (4), (5), and (8) of section
 1039 220.192, Florida Statutes, are amended to read:

1040 220.192 Renewable energy technologies investment tax
 1041 credit.—

1042 (3) CORPORATE APPLICATION PROCESS.—Any corporation wishing
 1043 to obtain tax credits available under this section must submit
 1044 to the Department of Agriculture and Consumer Services ~~Florida~~
 1045 ~~Energy and Climate Commission~~ an application for tax credit that
 1046 includes a complete description of all eligible costs for which
 1047 the corporation is seeking a credit and a description of the
 1048 total amount of credits sought. The Department of Agriculture
 1049 and Consumer Services ~~Florida Energy and Climate Commission~~
 1050 shall make a determination on the eligibility of the applicant
 1051 for the credits sought and certify the determination to the
 1052 applicant and the Department of Revenue. The corporation must
 1053 attach the Department of Agriculture and Consumer Services'
 1054 ~~Florida Energy and Climate Commission's~~ certification to the tax
 1055 return on which the credit is claimed. The Department of
 1056 Agriculture and Consumer Services ~~Florida Energy and Climate~~
 1057 ~~Commission~~ shall be responsible for ensuring that the corporate
 1058 income tax credits granted in each fiscal year do not exceed the
 1059 limits provided for in this section. The Department of
 1060 Agriculture and Consumer Services ~~Florida Energy and Climate~~
 1061 ~~Commission~~ is authorized to adopt the necessary rules,
 1062 guidelines, and application materials for the application
 1063 process.

1064 (4) TAXPAYER APPLICATION PROCESS.—To claim a credit under
 1065 this section, each taxpayer must apply to the Department of

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1066 | Agriculture and Consumer Services ~~Florida Energy and Climate~~
 1067 | ~~Commission~~ for an allocation of each type of annual credit by
 1068 | the date established by the Department of Agriculture and
 1069 | Consumer Services ~~Florida Energy and Climate Commission~~. The
 1070 | application form may be established by the Department of
 1071 | Agriculture and Consumer Services ~~Florida Energy and Climate~~
 1072 | ~~Commission~~. The form must include an affidavit from each
 1073 | taxpayer certifying that all information contained in the
 1074 | application, including all records of eligible costs claimed as
 1075 | the basis for the tax credit, are true and correct. Approval of
 1076 | the credits under this section shall be accomplished on a first-
 1077 | come, first-served basis, based upon the date complete
 1078 | applications are received by the Department of Agriculture and
 1079 | Consumer Services ~~Florida Energy and Climate Commission~~. A
 1080 | taxpayer shall submit only one complete application based upon
 1081 | eligible costs incurred within a particular state fiscal year.
 1082 | Incomplete placeholder applications will not be accepted and
 1083 | will not secure a place in the first-come, first-served
 1084 | application line. If a taxpayer does not receive a tax credit
 1085 | allocation due to the exhaustion of the annual tax credit
 1086 | authorizations, then such taxpayer may reapply in the following
 1087 | year for those eligible costs and will have priority over other
 1088 | applicants for the allocation of credits.

1089 | (5) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF
 1090 | CREDITS.—

1091 | (a) In addition to its existing audit and investigation
 1092 | authority, the Department of Revenue may perform any additional
 1093 | financial and technical audits and investigations, including

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1094 examining the accounts, books, and records of the tax credit
 1095 applicant, which are necessary to verify the eligible costs
 1096 included in the tax credit return and to ensure compliance with
 1097 this section. The Department of Agriculture and Consumer
 1098 Services Florida Energy and Climate Commission shall provide
 1099 technical assistance when requested by the Department of Revenue
 1100 on any technical audits or examinations performed pursuant to
 1101 this section.

1102 (b) It is grounds for forfeiture of previously claimed and
 1103 received tax credits if the Department of Revenue determines, as
 1104 a result of an audit or examination or from information received
 1105 from the Department of Agriculture and Consumer Services Florida
 1106 Energy and Climate Commission, that a taxpayer received tax
 1107 credits pursuant to this section to which the taxpayer was not
 1108 entitled. The taxpayer is responsible for returning forfeited
 1109 tax credits to the Department of Revenue, and such funds shall
 1110 be paid into the General Revenue Fund of the state.

1111 (c) The Department of Agriculture and Consumer Services
 1112 Florida Energy and Climate Commission may revoke or modify any
 1113 written decision granting eligibility for tax credits under this
 1114 section if it is discovered that the tax credit applicant
 1115 submitted any false statement, representation, or certification
 1116 in any application, record, report, plan, or other document
 1117 filed in an attempt to receive tax credits under this section.
 1118 The Department of Agriculture and Consumer Services Florida
 1119 Energy and Climate Commission shall immediately notify the
 1120 Department of Revenue of any revoked or modified orders
 1121 affecting previously granted tax credits. Additionally, the

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1122 taxpayer must notify the Department of Revenue of any change in
1123 its tax credit claimed.

1124 (d) The taxpayer shall file with the Department of Revenue
1125 an amended return or such other report as the Department of
1126 Revenue prescribes by rule and shall pay any required tax and
1127 interest within 60 days after the taxpayer receives notification
1128 from the Department of Agriculture and Consumer Services Florida
1129 ~~Energy and Climate Commission~~ that previously approved tax
1130 credits have been revoked or modified. If the revocation or
1131 modification order is contested, the taxpayer shall file an
1132 amended return or other report as provided in this paragraph
1133 within 60 days after a final order is issued after proceedings.

1134 (e) A notice of deficiency may be issued by the Department
1135 of Revenue at any time within 3 years after the taxpayer
1136 receives formal notification from the Department of Agriculture
1137 and Consumer Services Florida ~~Energy and Climate Commission~~ that
1138 previously approved tax credits have been revoked or modified.
1139 If a taxpayer fails to notify the Department of Revenue of any
1140 changes to its tax credit claimed, a notice of deficiency may be
1141 issued at any time.

1142 (8) PUBLICATION.—The Department of Agriculture and
1143 Consumer Services Florida ~~Energy and Climate Commission~~ shall
1144 determine and publish on a regular basis the amount of available
1145 tax credits remaining in each fiscal year.

1146 Section 30. Subsections (2) and (5) of section 288.1089,
1147 Florida Statutes, are amended to read:

1148 288.1089 Innovation Incentive Program.—

1149 (2) As used in this section, the term:

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1150 (e)-(d) "Department" means the Department of Agriculture
 1151 and Consumer Services ~~"Commission"~~ means the Florida Energy and
 1152 Climate Commission.

1153 (d)-(e) "Cumulative investment" means cumulative capital
 1154 investment and all eligible capital costs, as defined in s.
 1155 220.191.

1156 (5) Enterprise Florida, Inc., shall evaluate proposals for
 1157 all three categories of innovation incentive awards and transmit
 1158 recommendations for awards to the office. Before making its
 1159 recommendations on alternative and renewable energy projects,
 1160 Enterprise Florida, Inc., shall solicit comments and
 1161 recommendations from the department ~~Florida Energy and Climate~~
 1162 ~~Commission~~. For each project, the evaluation and recommendation
 1163 to the office must include, but need not be limited to:

1164 (a) A description of the project, its required facilities,
 1165 and the associated product, service, or research and development
 1166 associated with the project.

1167 (b) The percentage of match provided for the project.

1168 (c) The number of full-time equivalent jobs that will be
 1169 created by the project, the total estimated average annual wages
 1170 of such jobs, and the types of business activities and jobs
 1171 likely to be stimulated by the project.

1172 (d) The cumulative investment to be dedicated to the
 1173 project within 5 years and the total investment expected in the
 1174 project if more than 5 years.

1175 (e) The projected economic and fiscal impacts on the local
 1176 and state economies relative to investment.

1177 (f) A statement of any special impacts the project is

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1178 | expected to stimulate in a particular business sector in the
 1179 | state or regional economy or in the state's universities and
 1180 | community colleges.

1181 | (g) A statement of any anticipated or proposed
 1182 | relationships with state universities.

1183 | (h) A statement of the role the incentive is expected to
 1184 | play in the decision of the applicant to locate or expand in
 1185 | this state.

1186 | (i) A recommendation and explanation of the amount of the
 1187 | award needed to cause the applicant to expand or locate in this
 1188 | state.

1189 | (j) A discussion of the efforts and commitments made by
 1190 | the local community in which the project is to be located to
 1191 | induce the applicant's location or expansion, taking into
 1192 | consideration local resources and abilities.

1193 | (k) A recommendation for specific performance criteria the
 1194 | applicant would be expected to achieve in order to receive
 1195 | payments from the fund and penalties or sanctions for failure to
 1196 | meet or maintain performance conditions.

1197 | (l) Additional evaluative criteria for a research and
 1198 | development facility project, including:

1199 | 1. A description of the extent to which the project has
 1200 | the potential to serve as catalyst for an emerging or evolving
 1201 | cluster.

1202 | 2. A description of the extent to which the project has or
 1203 | could have a long-term collaborative research and development
 1204 | relationship with one or more universities or community colleges
 1205 | in this state.

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1206 3. A description of the existing or projected impact of
 1207 the project on established clusters or targeted industry
 1208 sectors.

1209 4. A description of the project's contribution to the
 1210 diversity and resiliency of the innovation economy of this
 1211 state.

1212 5. A description of the project's impact on special needs
 1213 communities, including, but not limited to, rural areas,
 1214 distressed urban areas, and enterprise zones.

1215 (m) Additional evaluative criteria for alternative and
 1216 renewable energy proposals, including:

1217 1. The availability of matching funds or other in-kind
 1218 contributions applied to the total project from an applicant.
 1219 The department ~~commission~~ shall give greater preference to
 1220 projects that provide such matching funds or other in-kind
 1221 contributions.

1222 2. The degree to which the project stimulates in-state
 1223 capital investment and economic development in metropolitan and
 1224 rural areas, including the creation of jobs and the future
 1225 development of a commercial market for renewable energy
 1226 technologies.

1227 3. The extent to which the proposed project has been
 1228 demonstrated to be technically feasible based on pilot project
 1229 demonstrations, laboratory testing, scientific modeling, or
 1230 engineering or chemical theory that supports the proposal.

1231 4. The degree to which the project incorporates an
 1232 innovative new technology or an innovative application of an
 1233 existing technology.

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1234 5. The degree to which a project generates thermal,
 1235 mechanical, or electrical energy by means of a renewable energy
 1236 resource that has substantial long-term production potential.
 1237 6. The degree to which a project demonstrates efficient
 1238 use of energy and material resources.
 1239 7. The degree to which the project fosters overall
 1240 understanding and appreciation of renewable energy technologies.
 1241 8. The ability to administer a complete project.
 1242 9. Project duration and timeline for expenditures.
 1243 10. The geographic area in which the project is to be
 1244 conducted in relation to other projects.
 1245 11. The degree of public visibility and interaction.
 1246 Section 31. Subsection (9) of section 288.9607, Florida
 1247 Statutes, is amended to read:
 1248 288.9607 Guaranty of bond issues.—
 1249 (9) The membership of the corporation is authorized and
 1250 directed to conduct such investigation as it may deem necessary
 1251 for promulgation of regulations to govern the operation of the
 1252 guaranty program authorized by this section. The regulations may
 1253 include such other additional provisions, restrictions, and
 1254 conditions as the corporation, after its investigation referred
 1255 to in this subsection, shall determine to be proper to achieve
 1256 the most effective utilization of the guaranty program. This may
 1257 include, without limitation, a detailing of the remedies that
 1258 must be exhausted by bondholders, a trustee acting on their
 1259 behalf, or other credit provided before calling upon the
 1260 corporation to perform under its guaranty agreement and the
 1261 subrogation of other rights of the corporation with reference to

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1262 the capital project and its operation or the financing in the
 1263 event the corporation makes payment pursuant to the applicable
 1264 guaranty agreement. The regulations promulgated by the
 1265 corporation to govern the operation of the guaranty program may
 1266 contain specific provisions with respect to the rights of the
 1267 corporation to enter, take over, and manage all financed
 1268 properties upon default. These regulations shall be submitted by
 1269 the corporation to the Department of Agriculture and Consumer
 1270 Services ~~Florida Energy and Climate Commission~~ for approval.

1271 Section 32. Subsection (5) of section 366.82, Florida
 1272 Statutes, is amended to read:

1273 366.82 Definition; goals; plans; programs; annual reports;
 1274 energy audits.—

1275 (5) The Department of Agriculture and Consumer Services
 1276 ~~Florida Energy and Climate Commission~~ shall be a party in the
 1277 proceedings to adopt goals and shall file with the commission
 1278 comments on the proposed goals, including, but not limited to:

1279 (a) An evaluation of utility load forecasts, including an
 1280 assessment of alternative supply-side and demand-side resource
 1281 options.

1282 (b) An analysis of various policy options that can be
 1283 implemented to achieve a least-cost strategy, including
 1284 nonutility programs targeted at reducing and controlling the per
 1285 capita use of electricity in the state.

1286 (c) An analysis of the impact of state and local building
 1287 codes and appliance efficiency standards on the need for
 1288 utility-sponsored conservation and energy efficiency measures
 1289 and programs.

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1290 Section 33. Subsection (3) of section 366.92, Florida
 1291 Statutes, is amended to read:

1292 366.92 Florida renewable energy policy.—

1293 (3) The commission shall adopt rules for a renewable
 1294 portfolio standard requiring each provider to supply renewable
 1295 energy to its customers directly, by procuring, or through
 1296 renewable energy credits. In developing the RPS rule, the
 1297 commission shall consult the Department of Environmental
 1298 Protection and the Department of Agriculture and Consumer
 1299 Services ~~Florida Energy and Climate Commission~~. The rule shall
 1300 not be implemented until ratified by the Legislature. The
 1301 commission shall present a draft rule for legislative
 1302 consideration by February 1, 2009.

1303 (a) In developing the rule, the commission shall evaluate
 1304 the current and forecasted levelized cost in cents per kilowatt
 1305 hour through 2020 and current and forecasted installed capacity
 1306 in kilowatts for each renewable energy generation method through
 1307 2020.

1308 (b) The commission's rule:

1309 1. Shall include methods of managing the cost of
 1310 compliance with the renewable portfolio standard, whether
 1311 through direct supply or procurement of renewable power or
 1312 through the purchase of renewable energy credits. The commission
 1313 shall have rulemaking authority for providing annual cost
 1314 recovery and incentive-based adjustments to authorized rates of
 1315 return on common equity to providers to incentivize renewable
 1316 energy. Notwithstanding s. 366.91(3) and (4), upon the
 1317 ratification of the rules developed pursuant to this subsection,

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1318 the commission may approve projects and power sales agreements
 1319 with renewable power producers and the sale of renewable energy
 1320 credits needed to comply with the renewable portfolio standard.
 1321 In the event of any conflict, this subparagraph shall supersede
 1322 s. 366.91(3) and (4). However, nothing in this section shall
 1323 alter the obligation of each public utility to continuously
 1324 offer a purchase contract to producers of renewable energy.

1325 2. Shall provide for appropriate compliance measures and
 1326 the conditions under which noncompliance shall be excused due to
 1327 a determination by the commission that the supply of renewable
 1328 energy or renewable energy credits was not adequate to satisfy
 1329 the demand for such energy or that the cost of securing
 1330 renewable energy or renewable energy credits was cost
 1331 prohibitive.

1332 3. May provide added weight to energy provided by wind and
 1333 solar photovoltaic over other forms of renewable energy, whether
 1334 directly supplied or procured or indirectly obtained through the
 1335 purchase of renewable energy credits.

1336 4. Shall determine an appropriate period of time for which
 1337 renewable energy credits may be used for purposes of compliance
 1338 with the renewable portfolio standard.

1339 5. Shall provide for monitoring of compliance with and
 1340 enforcement of the requirements of this section.

1341 6. Shall ensure that energy credited toward compliance
 1342 with the requirements of this section is not credited toward any
 1343 other purpose.

1344 7. Shall include procedures to track and account for
 1345 renewable energy credits, including ownership of renewable

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1346 energy credits that are derived from a customer-owned renewable
 1347 energy facility as a result of any action by a customer of an
 1348 electric power supplier that is independent of a program
 1349 sponsored by the electric power supplier.

1350 8. Shall provide for the conditions and options for the
 1351 repeal or alteration of the rule in the event that new
 1352 provisions of federal law supplant or conflict with the rule.

1353 (c) Beginning on April 1 of the year following final
 1354 adoption of the commission's renewable portfolio standard rule,
 1355 each provider shall submit a report to the commission describing
 1356 the steps that have been taken in the previous year and the
 1357 steps that will be taken in the future to add renewable energy
 1358 to the provider's energy supply portfolio. The report shall
 1359 state whether the provider was in compliance with the renewable
 1360 portfolio standard during the previous year and how it will
 1361 comply with the renewable portfolio standard in the upcoming
 1362 year.

1363 Section 34. Subsections (3) and (6) of section 403.44,
 1364 Florida Statutes, are amended to read:

1365 403.44 Florida Climate Protection Act.—

1366 (3) The department may adopt rules for a cap-and-trade
 1367 regulatory program to reduce greenhouse gas emissions from major
 1368 emitters. When developing the rules, the department shall
 1369 consult with the Department of Agriculture and Consumer Services
 1370 ~~Florida Energy and Climate Commission~~ and the Florida Public
 1371 Service Commission and may consult with the Governor's Action
 1372 Team for Energy and Climate Change. The department shall not

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1373 adopt rules until after January 1, 2010. The rules shall not
 1374 become effective until ratified by the Legislature.

1375 (6) Recognizing that the international, national, and
 1376 neighboring state policies and the science of climate change
 1377 will evolve, prior to submitting the proposed rules to the
 1378 Legislature for consideration, the department shall submit the
 1379 proposed rules to the Department of Agriculture and Consumer
 1380 Services ~~Florida Energy and Climate Commission~~, which shall
 1381 review the proposed rules and submit a report to the Governor,
 1382 the President of the Senate, the Speaker of the House of
 1383 Representatives, and the department. The report shall address:

1384 (a) The overall cost-effectiveness of the proposed cap-
 1385 and-trade system in combination with other policies and measures
 1386 in meeting statewide targets.

1387 (b) The administrative burden to the state of
 1388 implementing, monitoring, and enforcing the program.

1389 (c) The administrative burden on entities covered under
 1390 the cap.

1391 (d) The impacts on electricity prices for consumers.

1392 (e) The specific benefits to the state's economy for early
 1393 adoption of a cap-and-trade system for greenhouse gases in the
 1394 context of federal climate change legislation and the
 1395 development of new international compacts.

1396 (f) The specific benefits to the state's economy
 1397 associated with the creation and sale of emissions offsets from
 1398 economic sectors outside of the emissions cap.

1399 (g) The potential effects on leakage if economic activity
 1400 relocates out of the state.

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1401 (h) The effectiveness of the combination of measures in
 1402 meeting identified targets.

1403 (i) The economic implications for near-term periods of
 1404 short-term and long-term targets specified in the overall
 1405 policy.

1406 (j) The overall costs and benefits of a cap-and-trade
 1407 system to the economy of the state.

1408 (k) The impacts on low-income consumers that result from
 1409 energy price increases.

1410 (l) The consistency of the program with other state and
 1411 possible federal efforts.

1412 (m) The evaluation of the conditions under which the state
 1413 should consider linking its trading system to the systems of
 1414 other states or other countries and how that might be affected
 1415 by the potential inclusion in the rule of a safety valve.

1416 (n) The timing and changes in the external environment,
 1417 such as proposals by other states or implementation of a federal
 1418 program that would spur reevaluation of the Florida program.

1419 (o) The conditions and options for eliminating the Florida
 1420 program if a federal program were to supplant it.

1421 (p) The need for a regular reevaluation of the progress of
 1422 other emitting regions of the country and of the world, and
 1423 whether other regions are abating emissions in a commensurate
 1424 manner.

1425 (q) The desirability of and possibilities of broadening
 1426 the scope of the state's cap-and-trade system at a later date to
 1427 include more emitting activities as well as sinks in Florida,
 1428 the conditions that would need to be met to do so, and how the

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1429 program would encourage these conditions to be met, including
 1430 developing monitoring and measuring techniques for land use
 1431 emissions and sinks, regulating sources upstream, and other
 1432 considerations.

1433 Section 35. Section 570.074, Florida Statutes, is amended
 1434 to read:

1435 570.074 Department of Agriculture and Consumer Services;
 1436 energy and water policy eoordination.—The commissioner may
 1437 create an Office of Energy and Water Cooordination under the
 1438 supervision of a senior manager exempt under s. 110.205 in the
 1439 Senior Management Service. The commissioner may designate the
 1440 bureaus and positions in the various organizational divisions of
 1441 the department that report to this office relating to any matter
 1442 over which the department has jurisdiction in matters relating
 1443 to energy and water policy affecting agriculture, application of
 1444 such policies, and coordination of such matters with state and
 1445 federal agencies.

1446 Section 36. Section 526.207, Florida Statutes, is
 1447 repealed.

1448 Section 37. Subsection (3) of section 570.954, Florida
 1449 Statutes, is amended to read:

1450 570.954 Farm-to-fuel initiative.—

1451 ~~(3) The department shall coordinate with and solicit the~~
 1452 ~~expertise of the state energy office within the Department of~~
 1453 ~~Environmental Protection when developing and implementing this~~
 1454 ~~initiative.~~

1455 Section 38. Subsections (5), (11), (12), and (13) of
 1456 section 1004.648, Florida Statutes, are amended to read:

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1457 | 1004.648 Florida Energy Systems Consortium.—
 1458 | (5) The director, whose office shall be located at the
 1459 | University of Florida, shall report to the Department of
 1460 | Agriculture and Consumer Services ~~Florida Energy and Climate~~
 1461 | ~~Commission~~ created pursuant to s. 377.6015.
 1462 | (11) The oversight board, in consultation with the
 1463 | Department of Agriculture and Consumer Services ~~Florida Energy~~
 1464 | ~~and Climate Commission~~, shall ensure that the consortium:
 1465 | (a) Maintains accurate records of any funds received by
 1466 | the consortium.
 1467 | (b) Meets financial and technical performance
 1468 | expectations, which may include external technical reviews as
 1469 | required.
 1470 | (12) The steering committee shall consist of the
 1471 | university representatives included in the Centers of Excellence
 1472 | proposals for the Florida Energy Systems Consortium and the
 1473 | Center of Excellence in Ocean Energy Technology-Phase II which
 1474 | were reviewed during the 2007-2008 fiscal year by the Florida
 1475 | Technology, Research, and Scholarship Board created in s.
 1476 | 1004.226(4); a university representative appointed by the
 1477 | President of Florida International University; and the
 1478 | Department of Agriculture and Consumer Services ~~Florida Energy~~
 1479 | ~~and Climate Commission~~. The steering committee shall be
 1480 | responsible for establishing and ensuring the success of the
 1481 | consortium's mission under subsection (9).
 1482 | (13) By November 1 of each year, the consortium shall
 1483 | submit an annual report to the Governor, the President of the
 1484 | Senate, the Speaker of the House of Representatives, and the

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1485 | Department of Agriculture and Consumer Services ~~Florida Energy~~
1486 | ~~and Climate Commission~~ regarding its activities, including, but
1487 | not limited to, education and research related to, and the
1488 | development and deployment of, alternative energy technologies.
1489 | Section 39. This act shall take effect July 1, 2011.