



**Energy & Utilities
Subcommittee**

MEETING PACKET

**Tuesday, March 8, 2011
212 Knott Building
1:00 PM – 3:00 PM**

**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 8, 2011

1:00 p.m. – 3:00 p.m.

212 Knott Building (Webster Hall)

Opening Remarks by Chair Ford

Consideration of the following bills:

HB 531 - Assessment of Residential Real Property

Representative Frishe

HB 4149 – Regulation of Electronic Communications

Representative Porter

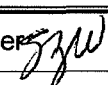

Workshop on Energy Policy Issues

Closing Remarks by Chair Ford

Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 531 Assessment of Residential Real Property
SPONSOR(S): Frishe
TIED BILLS: None. IDEN./SIM. BILLS: CS/SB 434

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee		Whittier 	Collins 
2) Community & Military Affairs Subcommittee			
3) Finance & Tax Committee			
4) State Affairs Committee			

SUMMARY ANALYSIS

In the November 2008 General Election, Florida voters approved a constitutional amendment authorizing the Legislature, by general law, to prohibit consideration of the following in the determination of the assessed value of real property used for residential purposes:

- Any change or improvement made for the purpose of improving the property’s resistance to wind damage; or
- The installation of a renewable energy source device.

This amendment to Article VII, Section 4, Florida Constitution, was placed on the ballot by the Taxation and Budget Reform Commission and was favorably adopted by 60.4 percent of the voters. The amendment also repealed then-existing constitutional authority for the Legislature to grant an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated.

HB 531 implements the 2008 constitutional amendment. Specifically, the bill defines “changes or improvements made for the purpose of improving a property’s resistance to wind damage” and “renewable energy source device.” It provides that, in determining the assessed value of real property used for residential purposes, the property appraiser may not consider the just value of changes or improvements made for the purpose of improving a property’s resistance to wind damage or the installation and operation of a renewable energy source device. The bill specifies that the provision applies to new and existing construction.

The Revenue Estimating Conference has estimated that the bill would negatively impact local government revenues, including school districts, by \$4.1 million in FY 2012-2013, \$5.6 million in FY 2013-2014, and \$7.3 million in FY 2014-2015.

The bill may be a mandate, requiring a 2/3ds vote of the membership of each house. See the Mandates section of this analysis.

The bill has an effective date of July 1, 2011, and would apply to assessments beginning on January 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Renewable Energy Property Tax Exemptions and Constitutional Amendment #3 (2008)

In 1980, Florida voters added the following authorization to Article VII, Section 3(d), Florida Constitution:¹

By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, and for the period of time fixed by general law not to exceed ten years.

During the same year, based on the new constitutional authority, the Legislature approved a property tax exemption for real property on which a renewable energy source device² is installed and is being operated. However, the exemption expired after 10 years, as provided in the constitution. Specifically, the exemption period authorized in statute was from January 1, 1980, through December 31, 1990. Therefore, if an exemption was granted in December 1990, the exemption terminated in December 2000. The law required that the exemption could be no more than the lesser of the following:

- The assessed value of the property less any other exemptions applicable under the chapter;
- The original cost of the device, including the installation costs, but excluding the cost of replacing previously existing property removed or improved in the course of the installation; or
- Eight percent of the assessed value of the property immediately following the installation.

In December 2000, the last of the exemptions expired.

During the 2008 Legislative Session, HB 7135 (Chapter 2008-227, L.O.F.) was enacted, removing the expiration date of the property tax exemption, thereby allowing property owners to once again apply for the exemption, effective January 1, 2009. The period of each exemption, however, remained at 10 years. The bill also revised the options for calculating the amount of the exemption for properties with renewable energy source devices by limiting the exemption to the amount of the original cost of the device, including the installation cost, but not including the cost of replacing previously existing property.

In the November 2008 General Election, the voters approved a constitutional amendment placed on the ballot by the Taxation and Budget Reform Commission adding the following language to Article VII, Section 4, Florida Constitution (Taxation; assessments):

¹ Through SJR 15-E.

² See ss. 196.175 and 196.012(14), F.S.

- (i) The legislature, by general law and subject to conditions specified therein, may³ prohibit the consideration of the following in the determination of the assessed value of real property used for residential purposes:
- (1) Any change or improvement made for the purpose of improving the property's resistance to wind damage; or
 - (2) The installation of a renewable energy source device.

The amendment also repealed the constitutional authority for the Legislature to grant an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated. This repealed language provided the constitutional basis for legislation passed in 1980 and in 2008.

Although the constitutional provision on which the ad valorem tax exemption was based has been repealed, the statutory language has not yet been repealed by the Legislature. On March 10, 2010, the House of Representatives passed HB 7005, repealing the obsolete language (ss. 196.175 and 196.012(14), F.S.). The bill, however, was not heard in the Senate and died in Messages.

Property Valuation

Article VII, Section 4, Florida Constitution, provides that all property, with some exceptions, is to be assessed at "just value." Florida courts define "just value" as the estimated fair "market value" of the property. The constitution requires property appraisers to establish the just value of every parcel of real property as of January 1 each year.

"Assessed value of property"⁴ means an annual determination of the just or fair market value of an item or property or the value of a homestead property after application of the "Save Our Homes" assessment limitation⁵ and the 10 percent cap on non-homestead property.⁶ In addition, "assessed value" is also the classified use value of agricultural or other special classes of property that are valued based on their current "classified" use rather than on market value.

Property Appraisals

Section 193.011, F.S., lists the following factors to be taken into consideration when determining just valuation:

- (1) The present cash value of the property, which is the amount a willing purchaser would pay a willing seller, exclusive of reasonable fees and costs of purchase, in cash or the immediate equivalent thereof in a transaction at arm's length;
- (2) The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and considering any moratorium imposed by executive order, law, ordinance, regulation, resolution, or proclamation adopted by any governmental body or agency or the Governor when the moratorium or judicial limitation prohibits or restricts the development or improvement of property as otherwise authorized by applicable law. The applicable governmental body or agency or the Governor shall notify the

³ The 2008 constitutional amendment is permissive and does not require the Legislature to enact legislation.

⁴ Section 192.001(2), F.S.

⁵ The popularly named "Save Our Homes" amendment to the State Constitution was approved by Florida voters in 1992. This amendment limits annual assessment increases to the lower of the change in the Consumer Price Index (CPI) or 3 percent of the assessment for the prior year. See Article VII, Section 4(d)(1), Florida Constitution.

⁶ On January 29, 2008, Florida voters approved a constitutional amendment changing property taxation provisions. Some of the changes provided that the property tax assessment of certain non-homestead property cannot increase by more than 10 percent per year, so long as ownership of the property does not change. The limitation does not apply to taxes levied by school districts.

property appraiser in writing of any executive order, ordinance, regulation, resolution, or proclamation it adopts imposing any such limitation, regulation, or moratorium;

(3) The location of said property;

(4) The quantity or size of said property;

(5) The cost of said property and the present replacement value of any improvements thereon;

(6) The condition of said property;

(7) The income from said property; and

(8) The net proceeds of the sale of the property, as received by the seller, after deduction of all of the usual and reasonable fees and costs of the sale, including the costs and expenses of financing, and allowance for unconventional or atypical terms of financing arrangements. When the net proceeds of the sale of any property are utilized, directly or indirectly, in the determination of just valuation of realty of the sold parcel or any other parcel under the provisions of this section, the property appraiser, for the purposes of such determination, shall exclude any portion of such net proceeds attributable to payments for household furnishings or other items of personal property.

Hurricane Mitigation Discounts and Premium Credits

Since 2003, insurers have been required to provide premium credits or discounts for residential property insurance for properties on which construction techniques which reduce the amount of loss in a windstorm have been installed.⁷

Typically, policyholders are responsible for substantiating to their insurers the existence of loss mitigation features in order to qualify for a mitigation discount. The Financial Services Commission (Governor and Cabinet) adopted a uniform mitigation verification form in 2007 for use by all insurers to corroborate a home's mitigation features. An updated form was approved by the Financial Services Commission on March 9, 2010.

2009 Senate Interim Report

During the 2009 interim, staff for the Senate Committee on Finance and Tax issued an interim report on the 2008 Constitutional Amendment and how the provision can be implemented.⁸ This report included information about property tax incentives provided by other states⁹ for installing renewable energy equipment or improving disaster resistance.

According to the report, the following states have enacted property tax incentives for renewable energy equipment:¹⁰

- California does not include construction or addition of an active solar energy system as new construction (through 2015-16);

⁷ The Department of Community Affairs in cooperation with the Department of Insurance contracted with Applied Research Associates, Inc., for a public domain study to provide insurers data and information on estimated loss reduction for wind resistive building features in single-family residences. The study, entitled Development of Loss Relativities for Wind Resistive Features of Residential Structures, was completed in 2002. The study's mathematical results, termed "wind loss relativities," were the basis for calculating the specific mitigation discount amount on the wind premium for mitigation features contained by the property. The relativities applied only to the portion of a policy's wind premium associated with the dwelling, its contents, and loss of use.

⁸ Assessment of Renewable Energy Devices and Improvements That Increase Resistance to Wind Damage – Implementation of Constitutional Amendment Approved in November 2008, The Florida Senate, Committee on Finance and Tax, Interim Report 2010-116, October 2009.

⁹ *State Tax Guide Volume 2*, Commerce Clearing House (Chicago, IL).

¹⁰ This list does not include incentives for public utilities.

- Colorado has a local option sales or property tax credit or rebate for a residential or commercial property owner who installs a renewable energy fixture on his or her property;
- Connecticut municipalities may exempt the value added by a solar heating or cooling system for 15 years after construction or the value of a renewable energy source installed for electricity for private residential use or addition of a passive solar hybrid system to a new or existing building;
- Illinois provides for special valuation for realty improvements equipped with solar energy heating or cooling systems;
- Louisiana exempts equipment attached to any owner-occupied residential building or swimming pool as part of a solar energy system;
- Maryland exempts solar energy property, defined as equipment installed to: use solar energy to heat or cool a structure, generate electricity, or provide hot water for use in the structure;
- Massachusetts provides a 20 year exemption for solar or wind-powered devices used to heat or supply energy for taxable property;
- Minnesota exempts solar panels used to produce or store electricity;
- Nevada exempts the value added by a solar energy system or facility for production of electricity from recycled material or wind or geothermal devices;
- New Hampshire municipalities may exempt, with voter approval, realty with wind, solar, or wood-heating energy systems;
- New York provides a 15 year exemption for realty containing solar or wind energy systems constructed before January 1, 2011, but only to the extent of any increase in value due to the system;
- North Carolina exempts up to 80 percent of the appraised value of a solar energy electric system, and buildings equipped with solar heating or cooling systems are assessed as if they had conventional systems;
- North Dakota exempts solar, wind, and geothermal energy systems in locally assessed property;
- South Dakota provides property tax credits for a commercial or residential property owner who attaches or includes a renewable energy resource system, valued at no less than the cost of the system for residential property and 50 percent of the cost for commercial property. The credit applies for 6 years, decreasing in value for the last 3 years, and it may not be transferred to a new owner;
- Texas exempts the value of assessed property arising from the construction or installation of any solar or wind-powered energy device on the property primarily for onsite use;
- Virginia allows a local option exemption or partial exemption for solar energy equipment; and
- Wisconsin exempts solar and wind energy systems.

According to the report, the following states have enacted property tax incentives for improvements dealing with disaster preparedness:

- California does consider the construction or installation in existing buildings of seismic retrofitting improvements or earthquake hazard mitigation technology as new construction, contingent upon the property owner filing required documents;
- California also provides that improvement or installation of a fire sprinkler system may not trigger a property tax increase;
- Oklahoma exempts a qualified storm shelter (tornado protection) that is installed or added as an improvement to real property; and
- Washington exempts the increase in value attributable to the installation of automatic sprinkler systems in nightclubs installed by December 31, 2009.

Effect of the Proposed Changes

This bill provides that, when determining the assessed value of real property used for residential purposes, for both new and existing construction, the property appraiser may not consider the just value of the following:

- Changes or improvements made for the purpose of improving a property's resistance to wind damage, which include any of the following:
 - Improving the strength of the roof deck attachment.
 - Creating a secondary water barrier to prevent water intrusion.
 - Installing wind-resistant shingles.
 - Installing gable-end bracing.
 - Reinforcing roof-to-wall connections.
 - Installing storm shutters.
 - Installing opening protections.

[The list above mirrors the mitigation verification form approved by the Financial Services Commission on March 9, 2010.]

- The installation and operation of a renewable energy source device, which means any of the following equipment which collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:
 - Solar energy collectors, photovoltaic modules, and inverters.
 - Storage tanks and other storage systems, excluding swimming pools used as storage tanks.
 - Rockbeds.
 - Thermostats and other control devices.
 - Heat exchange devices.
 - Pumps and fans.
 - Roof ponds.
 - Freestanding thermal containers.
 - Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, conventional backup systems of any type are not included in this definition.
 - Windmills and wind turbines.

- Wind-driven generators.
- Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy.
- Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

The bill provides that residential real property may not be assessed for changes or improvements made to improve its resistance to wind damage, or for the installation of a renewable energy source device if an application is filed with the property appraiser on or before March 1 of the first year the property owner claims the assessment.

The property appraiser may require the taxpayer or the taxpayer's representative to furnish the property appraiser such information as may reasonably be required to establish the just value of the renewable energy source devices, or changes or improvements made for the purpose of improving the property's resistance to wind damage.

Similar to provisions in s. 196.011, F.S., the language provides the opportunity to file a late application with the property appraiser within 25 days following the mailing of the Truth in Millage notice and authorizes the applicant to file a petition with the Value Adjustment Board (VAB), pursuant to s. 194.011(3), F.S. The applicant must pay a non-refundable fee of \$15.00 upon filing the petition. Upon review of the petition by the property appraiser or the VAB, if the property is qualified to be assessed under this section and the property owner demonstrates particular extenuating circumstances to warrant granting assessment under this section, the property appraiser must recalculate the assessment in accordance with the new provision.

The bill repeals the existing definition of renewable energy source device in s. 196.012(14), F.S., and repeals the obsolete exemption (s. 196.175, F.S.), based on the repeal of the constitutional provision by the voters in 2008. Several cross-references are amended.

B. SECTION DIRECTORY:

Section 1. Creates s. 193.624, F.S., relating to definitions and assessment of residential real property.

Section 2. Amends s. 193.155, F.S., relating to homestead assessments.

Section 3. Amends s. 193.1554, F.S., relating to the assessment of nonhomestead residential property.

Section 4. Amends s. 196.012, F.S., deleting the definition of a renewable energy source device.

Section 5. Amends s. 196.121, F.S., amending a cross-reference.

Section 6. Amends s. 196.1995, F.S., amending cross-references.

Section 7. Repeals s. 196.175, F.S., relating to the renewable energy source device property tax exemption.

Section 8. Provides an effective date of July 1, 2011, and applies to assessments beginning on January 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimated the following negative impacts on local government:

Wind Damage	FY 2011-2012 Cash	FY 2011-2012 Annualized	FY 2012-2013 Cash	FY 2013-2014 Cash	FY 2014-2015 Cash
School Impact	\$0	(\$1.7 m)	(\$0.8 m)	(\$1.0 m)	(\$1.2 m)
Non-School Impact	\$0	(\$2.4 m)	(\$1.1 m)	(\$1.4 m)	(\$1.7 m)
Total Impact	\$0	(\$4.1 m)	(\$1.9 m)	(\$2.4 m)	(\$2.9 m)

Renewable Energy Devices	FY 2011-2012 Cash	FY 2011-2012 Annualized	FY 2012-2013 Cash	FY 2013-2014 Cash	FY 2014-2015 Cash
School Impact	\$0	(\$3.1 m)	(\$0.9 m)	(\$1.3 m)	(\$1.8 m)
Non-School Impact	\$0	(\$4.4 m)	(\$1.3 m)	(\$1.9 m)	(\$2.6 m)
Total Impact	\$0	(\$7.5 m)	(\$2.2 m)	(\$3.2 m)	(\$4.4 m)

	FY 2011-2012 Cash	FY 2011-2012 Annualized	FY 2012-2013 Cash	FY 2013-2014 Cash	FY 2014-2015 Cash
Total Impact	\$0	(\$11.6 m)	(\$4.1 m)	(\$5.6 m)	(\$7.3 m)

2. Expenditures:

Property Appraisers may incur additional costs to implement the provisions of this bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The provisions in this bill may:

- Offer homebuilders and homebuyers incentives to construct or strengthen homes with improved wind resistance, or to equip homes with renewable energy source devices, if potential buyers begin to demand these features;
- Lead to a recurring tax benefit for homeowners;
- Result in lower insurance rates and energy costs for homeowners; and
- Encourage quicker adoption of building practices that take improved wind resistance into account.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill may be a mandate because the provision reduces the authority that counties or municipalities have to raise revenues in the aggregate. The bill does not appear to qualify for an exemption. Therefore, the bill may require a 2/3ds vote of the membership of each house.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 531 (2011)

Amendment No. 1

COUNCIL/COMMITTEE 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 Council/Committee hearing bill: Energy & Utilities Subcommittee
2 Representative(s) Frishe offered the following:

3
4 **Amendment**

5 Remove lines 62-69 and insert:

6 resistance to wind damage and the just value of renewable energy
7 source devices shall not be added to the assessed value as
8 limited by s. 193.155 or s. 193.1554.

9 (3) The assessed value of real property used for
10 residential purposes shall not exceed the total just value of
11 the property minus the combined just values of changes or
12 improvements made for the purpose of improving a property's
13 resistance to wind damage and renewable energy source devices.
14

- 29 3. Installing wind-resistant shingles;
 30 4. Installing gable-end bracing;
 31 5. Reinforcing roof-to-wall connections;
 32 6. Installing storm shutters; or
 33 7. Installing opening protections.
- 34 (b) "Renewable energy source device" means any of the
 35 following equipment that collects, transmits, stores, or uses
 36 solar energy, wind energy, or energy derived from geothermal
 37 deposits:
- 38 1. Solar energy collectors, photovoltaic modules, and
 39 inverters.
- 40 2. Storage tanks and other storage systems, excluding
 41 swimming pools used as storage tanks.
- 42 3. Rockbeds.
- 43 4. Thermostats and other control devices.
- 44 5. Heat exchange devices.
- 45 6. Pumps and fans.
- 46 7. Roof ponds.
- 47 8. Freestanding thermal containers.
- 48 9. Pipes, ducts, refrigerant handling systems, and other
 49 equipment used to interconnect such systems; however, such
 50 equipment does not include conventional backup systems of any
 51 type.
- 52 10. Windmills and wind turbines.
- 53 11. Wind-driven generators.
- 54 12. Power conditioning and storage devices that use wind
 55 energy to generate electricity or mechanical forms of energy.
- 56 13. Pipes and other equipment used to transmit hot

57 | geothermal water to a dwelling or structure from a geothermal
 58 | deposit.

59 | (2) In determining the assessed value of real property
 60 | used for residential purposes, the just value of changes or
 61 | improvements made for the purpose of improving a property's
 62 | resistance to wind damage and the just value of renewal energy
 63 | source devices shall not be added to the assessed value as
 64 | limited by s. 193.155 or s. 193.1554.

65 | (3) The assessed value of real property used for
 66 | residential purposes shall not exceed the total just value of
 67 | the property minus the combined just values of changes or
 68 | improvements made for the purpose of improving a property's
 69 | resistance to wind damage and renewal energy source devices.

70 | (4) This section applies to new and existing construction
 71 | used for residential purposes.

72 | (5) A parcel of residential property may not be assessed
 73 | pursuant to this section unless an application is filed on or
 74 | before March 1 of the first year the property owner claims the
 75 | assessment reduction for renewable energy source devices or
 76 | changes or improvements made for the purpose of improving the
 77 | property's resistance to wind damage. The property appraiser may
 78 | require the taxpayer or the taxpayer's representative to furnish
 79 | the property appraiser such information as may reasonably be
 80 | required to establish the just value of the renewable energy
 81 | source devices or changes or improvements made for the purpose
 82 | of improving the property's resistance to wind damage. Failure
 83 | to make timely application by March 1 shall constitute a waiver
 84 | of the property owner to have his or her assessment calculated

85 under this section. However, an applicant who fails to file an
 86 application by March 1 may file a late application and may file,
 87 pursuant to s. 194.011(3), a petition with the value adjustment
 88 board requesting assessment under this section. The petition
 89 must be filed on or before the 25th day after the mailing of the
 90 notice by the property appraiser as provided in s. 194.011(1).
 91 Notwithstanding s. 194.013, the applicant must pay a
 92 nonrefundable fee of \$15 upon filing the petition. Upon
 93 reviewing the petition, if the property is qualified to be
 94 assessed under this section and the property owner demonstrates
 95 particular extenuating circumstances judged by the property
 96 appraiser or the value adjustment board to warrant granting
 97 assessment under this section, the property appraiser shall
 98 calculate the assessment in accordance with this section.

99 Section 2. Paragraph (a) of subsection (4) of section
 100 193.155, Florida Statutes, is amended to read:

101 193.155 Homestead assessments.—Homestead property shall be
 102 assessed at just value as of January 1, 1994. Property receiving
 103 the homestead exemption after January 1, 1994, shall be assessed
 104 at just value as of January 1 of the year in which the property
 105 receives the exemption unless the provisions of subsection (8)
 106 apply.

107 (4) (a) Except as provided in paragraph (b) and s. 193.624,
 108 changes, additions, or improvements to homestead property shall
 109 be assessed at just value as of the first January 1 after the
 110 changes, additions, or improvements are substantially completed.

111 Section 3. Paragraph (a) of subsection (6) of section
 112 193.1554, Florida Statutes, is amended to read:

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113 193.1554 Assessment of nonhomestead residential property.-
 114 (6) (a) Except as provided in paragraph (b) and s. 193.624,
 115 changes, additions, or improvements to nonhomestead residential
 116 property shall be assessed at just value as of the first January
 117 1 after the changes, additions, or improvements are
 118 substantially completed.

119 Section 4. Subsections (14) through (20) of section
 120 196.012, Florida Statutes, are amended to read:

121 196.012 Definitions.-For the purpose of this chapter, the
 122 following terms are defined as follows, except where the context
 123 clearly indicates otherwise:

124 ~~(14) "Renewable energy source device" or "device" means~~
 125 ~~any of the following equipment which, when installed in~~
 126 ~~connection with a dwelling unit or other structure, collects,~~
 127 ~~transmits, stores, or uses solar energy, wind energy, or energy~~
 128 ~~derived from geothermal deposits:~~

129 ~~(a) Solar energy collectors.~~

130 ~~(b) Storage tanks and other storage systems, excluding~~
 131 ~~swimming pools used as storage tanks.~~

132 ~~(c) Rockbeds.~~

133 ~~(d) Thermostats and other control devices.~~

134 ~~(e) Heat exchange devices.~~

135 ~~(f) Pumps and fans.~~

136 ~~(g) Roof ponds.~~

137 ~~(h) Freestanding thermal containers.~~

138 ~~(i) Pipes, ducts, refrigerant handling systems, and other~~
 139 ~~equipment used to interconnect such systems; however,~~
 140 ~~conventional backup systems of any type are not included in this~~

141 ~~definition.~~

142 ~~(j) Windmills.~~

143 ~~(k) Wind-driven generators.~~

144 ~~(l) Power conditioning and storage devices that use wind~~
 145 ~~energy to generate electricity or mechanical forms of energy.~~

146 ~~(m) Pipes and other equipment used to transmit hot~~
 147 ~~geothermal water to a dwelling or structure from a geothermal~~
 148 ~~deposit.~~

149 (14) ~~(15)~~ "New business" means:

150 (a)1. A business establishing 10 or more jobs to employ 10
 151 or more full-time employees in this state, which manufactures,
 152 processes, compounds, fabricates, or produces for sale items of
 153 tangible personal property at a fixed location and which
 154 comprises an industrial or manufacturing plant;

155 2. A business establishing 25 or more jobs to employ 25 or
 156 more full-time employees in this state, the sales factor of
 157 which, as defined by s. 220.15(5), for the facility with respect
 158 to which it requests an economic development ad valorem tax
 159 exemption is less than 0.50 for each year the exemption is
 160 claimed; or

161 3. An office space in this state owned and used by a
 162 corporation newly domiciled in this state; provided such office
 163 space houses 50 or more full-time employees of such corporation;
 164 provided that such business or office first begins operation on
 165 a site clearly separate from any other commercial or industrial
 166 operation owned by the same business.

167 (b) Any business located in an enterprise zone or
 168 brownfield area that first begins operation on a site clearly

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169 separate from any other commercial or industrial operation owned
 170 by the same business.

171 (c) A business that is situated on property annexed into a
 172 municipality and that, at the time of the annexation, is
 173 receiving an economic development ad valorem tax exemption from
 174 the county under s. 196.1995.

175 (15)~~(16)~~ "Expansion of an existing business" means:

176 (a)1. A business establishing 10 or more jobs to employ 10
 177 or more full-time employees in this state, which manufactures,
 178 processes, compounds, fabricates, or produces for sale items of
 179 tangible personal property at a fixed location and which
 180 comprises an industrial or manufacturing plant; or

181 2. A business establishing 25 or more jobs to employ 25 or
 182 more full-time employees in this state, the sales factor of
 183 which, as defined by s. 220.15(5), for the facility with respect
 184 to which it requests an economic development ad valorem tax
 185 exemption is less than 0.50 for each year the exemption is
 186 claimed; provided that such business increases operations on a
 187 site colocated with a commercial or industrial operation owned
 188 by the same business, resulting in a net increase in employment
 189 of not less than 10 percent or an increase in productive output
 190 of not less than 10 percent.

191 (b) Any business located in an enterprise zone or
 192 brownfield area that increases operations on a site colocated
 193 with a commercial or industrial operation owned by the same
 194 business.

195 (16)~~(17)~~ "Permanent resident" means a person who has
 196 established a permanent residence as defined in subsection (17)

197 | ~~(18)~~.

198 | (17)~~(18)~~ "Permanent residence" means that place where a
 199 | person has his or her true, fixed, and permanent home and
 200 | principal establishment to which, whenever absent, he or she has
 201 | the intention of returning. A person may have only one permanent
 202 | residence at a time; and, once a permanent residence is
 203 | established in a foreign state or country, it is presumed to
 204 | continue until the person shows that a change has occurred.

205 | (18)~~(19)~~ "Enterprise zone" means an area designated as an
 206 | enterprise zone pursuant to s. 290.0065. This subsection expires
 207 | on the date specified in s. 290.016 for the expiration of the
 208 | Florida Enterprise Zone Act.

209 | (19)~~(20)~~ "Ex-servicemember" means any person who has
 210 | served as a member of the United States Armed Forces on active
 211 | duty or state active duty, a member of the Florida National
 212 | Guard, or a member of the United States Reserve Forces.

213 | Section 5. Subsection (2) of section 196.121, Florida
 214 | Statutes, is amended to read:

215 | 196.121 Homestead exemptions; forms.—

216 | (2) The forms shall require the taxpayer to furnish
 217 | certain information to the property appraiser for the purpose of
 218 | determining that the taxpayer is a permanent resident as defined
 219 | in s. 196.012(16)~~(17)~~. Such information may include, but need
 220 | not be limited to, the factors enumerated in s. 196.015.

221 | Section 6. Subsection (6), paragraph (d) of subsection
 222 | (8), paragraph (d) of subsection (9), and paragraph (d) of
 223 | subsection (10) of section 196.1995, Florida Statutes, are
 224 | amended to read:

225 | 196.1995 Economic development ad valorem tax exemption.—
 226 | (6) With respect to a new business as defined by s.
 227 | 196.012(14)~~(15)~~(c), the municipality annexing the property on
 228 | which the business is situated may grant an economic development
 229 | ad valorem tax exemption under this section to that business for
 230 | a period that will expire upon the expiration of the exemption
 231 | granted by the county. If the county renews the exemption under
 232 | subsection (7), the municipality may also extend its exemption.
 233 | A municipal economic development ad valorem tax exemption
 234 | granted under this subsection may not extend beyond the duration
 235 | of the county exemption.

236 | (8) Any person, firm, or corporation which desires an
 237 | economic development ad valorem tax exemption shall, in the year
 238 | the exemption is desired to take effect, file a written
 239 | application on a form prescribed by the department with the
 240 | board of county commissioners or the governing authority of the
 241 | municipality, or both. The application shall request the
 242 | adoption of an ordinance granting the applicant an exemption
 243 | pursuant to this section and shall include the following
 244 | information:

245 | (d) Proof, to the satisfaction of the board of county
 246 | commissioners or the governing authority of the municipality,
 247 | that the applicant is a new business or an expansion of an
 248 | existing business, as defined in s. 196.012~~(15)~~ ~~or (16)~~; and
 249 | (9) Before it takes action on the application, the board
 250 | of county commissioners or the governing authority of the
 251 | municipality shall deliver a copy of the application to the
 252 | property appraiser of the county. After careful consideration,

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253 | the property appraiser shall report the following information to
 254 | the board of county commissioners or the governing authority of
 255 | the municipality:

256 | (d) A determination as to whether the property for which
 257 | an exemption is requested is to be incorporated into a new
 258 | business or the expansion of an existing business, as defined in
 259 | s. 196.012~~(15)~~ or ~~(16)~~, or into neither, which determination the
 260 | property appraiser shall also affix to the face of the
 261 | application. Upon the request of the property appraiser, the
 262 | department shall provide to him or her such information as it
 263 | may have available to assist in making such determination.

264 | (10) An ordinance granting an exemption under this section
 265 | shall be adopted in the same manner as any other ordinance of
 266 | the county or municipality and shall include the following:

267 | (d) A finding that the business named in the ordinance
 268 | meets the requirements of s. 196.012~~(14)~~~~(15)~~ or (15) ~~(16)~~.

269 | Section 7. Section 196.175, Florida Statutes, is repealed.

270 | Section 8. This act shall take effect July 1, 2011, and
 271 | applies to assessments beginning January 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4149 Regulation of Electronic Communications
SPONSOR(S): Porter and others
TIED BILLS: None IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee		Helping <i>CH</i>	Collins <i>JOC</i>
2) State Affairs Committee			

SUMMARY ANALYSIS

This bill repeals the entirety of chapter 363, F.S., which establishes penalties and liability provisions related to the transmission of messages by telegraph. As telegraph service appears no longer to be provided in Florida, the provisions of chapter 363, F.S., appear to be outdated and no longer applicable.

The bill also repeals s. 364.059, F.S., which provides procedures available to substantially interested parties in the event a local exchange telecommunications company elects, pursuant to s. 364.051(6), F.S., to have its basic local telecommunications services treated the same as its nonbasic services. Section 364.051(6), F.S., was repealed in 2007, so the election provided under that section is no longer available to local exchange telecommunications companies. Thus, the provisions of s. 364.059, F.S., are no longer effective.

The bill has no fiscal impact on state or local governments.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Repeal of Chapter 363, F.S.

Chapter 363, F.S., establishes penalties and liability provisions related to the transmission of messages by telegraph. Sections 363.02 through 363.05, F.S., establish penalties and liability provisions for a telegraph company that negligently fails to promptly transmit and deliver messages or refuses to receive for transmission any legible messages provided to the company for transmission. Further, section 363.06, F.S., provides that persons engaged in the business of sending telegrams are liable for damages for mental anguish and physical suffering resulting from negligent failure to promptly and correctly transmit or deliver a telegram. Section 363.08, F.S., establishes liability for persons engaged in the business of sending telegrams in cipher for negligent failure to promptly transmit and deliver a telegram in cipher. Section 363.10, F.S., provides that contractual provisions intended to limit the liability imposed in this chapter are illegal and void. The provisions of this chapter do not apply to interstate transmissions of telegraph messages.¹

The current provisions of ch. 363, F.S., have remained substantively unchanged in the law since at least 1913.² Sections 363.02, 363.03, and 363.05, F.S., were adopted in 1907 and have remained in law since then without amendment. Section 363.04, F.S., was adopted in 1907 and was changed once, in 1945, with a one word technical amendment. Sections 363.06-10, F.S., were adopted in 1913 and have remained in law since then without amendment. No court opinions related to these provisions have been published since 1945.

Samuel Morse, inventor of the Morse code, sent the first telegram from Washington to Baltimore on May 26, 1844, to his partner Alfred Vail to usher in the telegram era that displaced the Pony Express. It read "WHAT HATH GOD WROUGHT?"³ We now have a more modern answer to that question, as transmitting and receiving messages by telegraph has been replaced by the speed and widespread availability of e-mail, faxes, inexpensive long-distance telephone service, instant messaging,⁴ Twitter, and Facebook. Western Union Telegraph Company, perhaps the most well-known telegraph service provider, sent its last telegram on January 27, 2006.⁵ As a result, it appears that the provisions of chapter 363, F.S., are outdated and no longer applicable.⁶

The bill repeals the provisions of Chapter 363, F.S.

Repeal of Section 364.059, F.S.

Section 364.059, F.S., provides procedures available to substantially interested parties in the event a local exchange telecommunications company elects, pursuant to s. 364.051(6), F.S., to have its basic local telecommunications services treated the same as its nonbasic services.

In 2007, subsections (6), (7), and (8) of s. 364.051, F.S., were repealed by s. 10, ch. 2007-29, L.O.F. Thus, the election available in s. 364.051(6), F.S., is no longer available to local exchange

¹ Price v. Western Union Tel. Co., 23 So.2d 491 (Fla. 1945) ("sending of a telegraph message from one state into another is a transaction in interstate commerce").

² Former s. 363.01, F.S., adopted in 1885, established a per-word rate cap for telegraph messages. This provision was repealed in 2000.

³ <http://www.wired.com/science/discoveries/news/2006/02/70147>

⁴ <http://en.wikipedia.org/wiki/Telegraphy>; <http://www.npr.org/templates/story/story.php?storyId=5186113>

⁵ <http://www.npr.org/templates/story/story.php?storyId=5186113>; <http://www.wired.com/science/discoveries/news/2006/02/70147>

⁶ Staff is unable to identify any company registered in Florida that provides telegram service.

telecommunications companies, making the procedures in s. 364.059, F.S., without effect and obsolete.

The bill repeals s. 364.059, F.S.

B. SECTION DIRECTORY:

Section 1. Repeals ss. 363.02, 363.03, 363.04, 363.05, 363.06, 363.07, 363.08, 363.09, and 363.10, F.S., relating to liability and damages for failure to transmit or deliver telegraph messages.

Section 2. Repeals s. 364.059, F.S., relating to procedures for petitions to stay implementation of price changes due to a local exchange telecommunications company electing to have its basic local exchange telecommunications services treated the same as its nonbasic services.

Section 3. Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None provided.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

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1 A bill to be entitled
2 An act relating to regulation of electronic
3 communications; repealing ch. 363, F.S., relating to
4 regulation of telegraph companies; removing provisions
5 requiring transmission and delivery of messages; removing
6 provisions relating to liability and recovery of damages;
7 repealing s. 364.059, F.S., relating to telecommunications
8 services; removing procedures for a petition to the Public
9 Service Commission to stay implementation of price changes
10 due to a local exchange telecommunications company
11 electing to have its basic local telecommunications
12 services treated the same as its nonbasic services;
13 providing an effective date.

14

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

16

17 Section 1. Sections 363.02, 363.03, 363.04, 363.05,
18 363.06, 363.07, 363.08, 363.09, and 363.10, Florida Statutes,
19 are repealed.

20 Section 2. Section 364.059, Florida Statutes, is repealed.

21 Section 3. This act shall take effect July 1, 2011.

**Workshop of
Energy Policy**

DISCUSSION QUESTIONS FOR WORKSHOP OF ENERGY POLICY ISSUES

March 8, 2011

I. Florida Energy Policy Goals

- A. Should the Legislature establish a comprehensive and cohesive statement of Florida's energy policy goals?
- B. Should the Legislature clearly identify the priority of its energy policy goals?

II. Mechanisms to Encourage Development of Sustainable Energy Resources

- A. Should utilities be encouraged to voluntarily produce or purchase new sustainable energy resources at this time? If so:
 - 1. What types of energy resources should be encouraged as "sustainable" resources?
 - a. Renewables (e.g., biomass, solar energy, wind energy, ocean energy, hydroelectric power, geothermal energy, and waste heat)
 - i. Emphasis on particular technologies?
 - ii. Ensure use of multiple technologies?
 - b. Nuclear
 - c. Cleaner fossil-fuel technologies
 - d. Generation and transmission system efficiency measures
 - e. Others?
 - 2. What types of incentives should be provided – and what barriers should be removed – to encourage utilities to add new sustainable energy resources?
 - a. Authorization of cost recovery for eligible projects
 - b. Financial incentives for utilizing Florida-produced materials
 - c. Removal of requirement for solar facilities to obtain certification under Florida's Power Plant Siting Act
 - d. Others?

3. How do we ensure that the fundamental goals of energy affordability and reliability are met while encouraging new sustainable resources that are often more expensive and sometimes less reliable than traditional resources?
 - a. Measures to limit utility customer rate impacts (1%, 2%, 3%, 4% cost cap)
 - b. PSC role in determining prudence of costs incurred
 - c. Other measures?

- B. Should the state adopt uniform permitting procedures to streamline the process for installing customer-owned renewable energy resources?
 1. Unified, single application and permit per system
 2. Simplified review processes
 3. Standardized fee system for permits and inspections
 4. Reduced window for inspection time appointments

- C. Should the Legislature promote the production of biodiesel through minimum standards? If so, how can these standards be achieved to be consistent with the Florida Energy Policy Goals outlined above?

III. Governance of Florida Energy Policy

- A. Does the current form and structure of the Florida Energy & Climate Commission provide the most efficient and effective means of governing energy policy in Florida?

- B. Would an executive agency provide better implementation and oversight of energy policy matters as opposed to a part-time appointed board?

I. Florida Energy Policy Goals

- A. Should the Legislature establish a comprehensive and cohesive statement of Florida's energy policy goals?
- B. Should the Legislature clearly identify the priority of its energy policy goals?

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 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 and services on which Florida depends. Therefore, there is significant value to Florida consumers that comes from investment in~~

~~Florida's energy infrastructure that increases system reliability, enhances energy independence and diversification, stabilizes energy costs, and reduces greenhouse gas emissions.~~

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

(a) Ensuring an affordable energy supply.

(b) Ensuring adequate supply and capacity.

(c) Ensuring a secure and reliable energy supply.

(d) Minimizing energy cost volatility.

(e) Minimizing the negative impacts of energy production on the state's environment, social fabric, and the public health and welfare.

(f) Maximizing economic synergies for the state associated with its energy policy.

(g) Reducing the net export of energy expenditures.

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

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

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

(c) Include energy considerations in all state, regional, and local planning.

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

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

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

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

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

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

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

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

Section 2. 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 1. Section 366.92, Florida Statutes, is amended to read:

366.92 Florida renewable energy policy.-

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

(a) A provider may petition the commission through July 1, 2015, for recovery of costs to produce or purchase renewable energy, subject to the cost cap in paragraph (c). The provider has sole discretion to determine the type and technology of the renewable energy resource that it intends to use. However, at least 20 percent of the total nameplate capacity for which a provider is permitted to recover costs in any calendar year

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

(b) In addition to the full cost recovery for such renewable energy projects, a return on equity of at least 50 basis points above the top of the range of the provider's last authorized rate of return on equity approved by the commission for energy projects shall be approved and provided for such renewable energy projects if a majority value of the energy-producing components incorporated into such projects are manufactured or assembled in the state.

(c) For the production or purchase of renewable energy under this subsection, a provider may recover costs up to and in excess of its full avoided cost, as defined in s. 366.051 and approved by the commission, if the recovery of costs in excess of the provider's full avoided cost does not exceed, at any time, 2 percent of the provider's total revenues from the retail sale of electricity for calendar year 2009. For purposes of cost recovery under this subsection, costs shall be computed using a methodology that, for a renewable energy generating facility, averages the revenue requirements of the facility over its economic life and, for a renewable energy purchase, averages the revenue requirements of the purchase over the life of the contract.

(d) Cost recovery under this subsection is limited to new construction or conversion projects for which construction is commenced on or after July 1, 2010, and to purchases made on or after that date. All renewable energy projects for which costs are approved by the commission for recovery through the environmental cost recovery clause before July 1, 2010, are not subject to or included in the calculation of the cost cap.

(e) The costs incurred by a provider to produce or purchase renewable energy under this subsection are deemed to be prudent for purposes of cost recovery if the provider uses reasonable and customary industry practices in the design, procurement, and construction of the project in a cost-effective manner for the type of renewable energy resource and appropriate to the location of the facility.

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

1. For new renewable energy generating facilities, the

commission shall allow recovery of reasonable and prudent costs, including, but not limited to, the siting, licensing, engineering, design, permitting, construction, operation, and maintenance of such facilities, including any applicable taxes and a return based on the provider's last authorized rate of return.

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

3. For purchase of renewable energy from third-party generating facilities in the state, the commission shall allow recovery of reasonable and prudent costs associated with the purchase. Any petition for approval of a purchased power agreement for renewable energy that is filed with the commission before April 2, 2010, and remains pending on the effective date of this act shall be considered by the commission to have been filed in accordance with, and shall be subject to the provisions of, this subsection, except that, before January 1, 2011, the provider is not required to file with the commission a schedule of planned production and purchases pursuant to paragraph (a).

(g) In a proceeding to recover costs incurred under this subsection, a provider must provide the commission all cost information, hourly energy production information, and other information deemed relevant by the commission with respect to each project.

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

of the renewable energy purchased.

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

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

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

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

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

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

(4)-(5) Each municipal electric utility and rural electric

cooperative shall develop standards for the promotion, encouragement, and expansion of the use of renewable energy resources and energy conservation and efficiency measures. On or before April 1, 2009, and annually thereafter, each municipal electric utility and electric cooperative shall submit to the commission a report that identifies such standards.

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

(8)(7) The commission may adopt rules to administer and implement the provisions of this section.

Section 2. Subsection (14) of section 403.503, Florida Statutes, is amended to read:

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

(14) "Electrical power plant" means, for the purpose of certification, any steam ~~or solar~~ electrical generating facility using any process or fuel, including nuclear materials, except that this term does not include any steam ~~or solar~~ electrical generating facility of less than 75 megawatts in capacity or any solar electrical generating facility of any sized capacity unless the applicant for such a facility elects to apply for certification under this act. This term also includes the site; all associated facilities that will be owned by the applicant that are physically connected to the site; all associated facilities that are indirectly connected to the site by other proposed associated facilities that will be owned by the applicant; and associated transmission lines that will be owned by the applicant which connect the electrical power plant to an existing transmission network or rights-of-way to which the applicant intends to connect. At the applicant's option, this

term may include any offsite associated facilities that will not be owned by the applicant; offsite associated facilities that are owned by the applicant but that are not directly connected to the site; any proposed terminal or intermediate substations or substation expansions connected to the associated transmission line; or new transmission lines, upgrades, or improvements of an existing transmission line on any portion of the applicant's electrical transmission system necessary to support the generation injected into the system from the proposed electrical power plant.



Florida Energy and Climate Commission (FECC)

Introduction

During the 2007 Legislative Session, the issue of fragmentation of energy policy governance began to be raised. Several legislators noted that the state's energy policies and programs were not aligned to accomplish core energy policy goals. At that time, the following entities played a role in developing, implementing, or coordinating some aspect of Florida's energy policies: the Florida Energy Office within the Department of Environmental Protection (DEP), the DEP, the Department of Community Affairs, the Florida Building Commission, the Department of Agriculture and Consumer Services, the Department of Management Services, the Department of Financial Services, the Public Service Commission, the Florida Energy Commission (an arm of the Legislature), the Governor's Action Team on Energy and Climate Change, and a host of colleges and universities.

To directly address the fragmentation issue, the Legislature passed CS/HB 7123, which included the creation of a 12-member Energy Policy Governance Task Force to study and recommend a unified approach to developing and implementing the state's energy policies. The bill, however, was vetoed on June 20, 2007, and the task force was not created. Subsequent to the veto, both the Florida Energy Commission and the Governor's Action Team on Energy and Climate Change raised the question of whether there should be a single state governmental entity responsible for Florida's energy policies.

In 2008, the Legislature created the Florida Energy and Climate Commission (FECC or commission) through HB 7135 (s. 377.6015, F.S.), to provide a single entity that would develop, implement, and coordinate energy policies for the state. The bill merged the Florida Energy Office with the Florida Energy Commission and administratively placed the commission within the Executive Office of the Governor.

Legislative Action in 2008

The FECC is comprised of nine members, seven of which are appointed by the Governor, for staggered 3-year terms. The other two positions are appointed, one each, by the Commissioner of Agriculture (Commissioner), and the Chief Financial Officer (CFO). The Governor is to select one member from three people nominated by the Florida Public Service Commission Nominating Council (Nominating Council) for each seat on the commission. In addition, the Commissioner and the CFO are each to select one member from three people nominated by the Nominating Council. The Nominating Council is to submit the nominations by September 1 of those years in which the terms are to begin the following October, or within 60 days after a vacancy occurs for any reason other than the expiration of the term. The Governor, the Commissioner, and the CFO may proffer names to be considered by the Nominating Council. If the Governor, Commissioner, or the CFO does not make an appointment within 30 days of receiving the Nominating Council's recommendations or if the Senate fails to confirm an

appointment to the FECC, the Nominating Council is to initiate the nominating process within 30 days. The Governor or his or her successor can recall an appointee.

An FECC member must be an expert in one or more of the following fields:

- Energy
- Natural resource conservation
- Economics
- Engineering
- Finance
- Law
- Transportation and land use
- Consumer protection
- State energy policy
- Another field which is substantially related to the duties and functions of the FECC.

The Governor is to select a chair from one of the nine people appointed to the FECC. The chair may designate ex officio, nonvoting members to provide information and advice to the FECC.¹ The FECC is required to meet at least six times a year and may employ staff and counsel, as needed. As of November 2010, the FECC has convened or met via conference-call approximately 27 times since its inception.²

Among other duties, the FECC is directed to perform the following functions:³

- Administer the Florida Renewable Energy and Energy Efficient Technologies Grant Program⁴ and develop a policy for requiring grantees to provide royalty-sharing or licensing agreements with state government for commercialized products developed under a state grant⁵
- Administer the Florida Green Government Grants Act and set annual priorities for grants⁶
- Administer petroleum allocation and conservation activities⁷ and emergency contingency planning⁸
- Represent Florida in the Southern States Energy Compact⁹

¹ In accordance with s. 377.6015(1)(c), F.S., the chair of the FECC may designate the following as ex officio, nonvoting members to provide information and advice to the FECC:

- The Chair of the Florida Public Service Commission, or designee
- The Public Counsel, or designee
- A representative of the Department of Agriculture and Consumer Services
- A representative of the Department of Financial Services
- A representative of the Department of Environmental Protection
- A representative of the Department of Community Affairs
- A representative of the Board of Governors of the State University System
- A representative of the Department of Transportation.

² http://myfloridaclimate.com/climate_quick_links/florida_energy_climate_commission/the_commission/meetings_and_workshops

³ Chapter 377, Parts II and III, F.S.

⁴ Section 377.804, F.S.

⁵ Section 377.6015(5)(a) and (b), F.S.

⁶ Section 377.808, F.S.

⁷ Section 377.701, F.S.

⁸ Section 377.703(2)(a), F.S.

⁹ Sections 377.71-377.711, F.S.

- Provide specific recommendations to the Governor and the Legislature each year to improve results that were determined in the Governor's Action Team on Energy and Climate Change 2008 report¹⁰
- Administer the Solar Energy System Incentives Program¹¹ and the Energy-Efficient Appliance Rebate Program¹²
- Advocate for energy and climate change issues and provide educational outreach and technical assistance in cooperation with Florida's academic institutions¹³
- Be a party in the proceedings to adopt goals and submit comments to the Public Service Commission (PSC)¹⁴
- Analyze energy data collected and prepare long-range forecasts of energy supply and demand in coordination with the PSC¹⁵
- Submit an annual report to the Governor and Legislature reflecting its activities and making recommendations of policies for improvement of the state's response to energy supply and demand and its effect on the health, safety, and welfare of citizens¹⁶
- Promote the development and use of renewable energy resources¹⁷
- Promote energy conservation in all energy use sectors throughout the state and shall constitute the state agency primarily responsible for this function and coordinate the energy conservation programs of all state agencies and review and comment on the energy conservation programs of all state agencies¹⁸
- Serve as the state clearinghouse for indexing and gathering information related to energy programs in state universities, in private universities, in federal, state, and local government agencies, and in private industry, and must prepare and distribute this information in any matter necessary to inform and advise the citizens of the state of the programs and activities¹⁹
- Coordinate energy-related programs of state government²⁰
- Develop, coordinate, and promote a comprehensive research plan for state programs to be updated on a biennial basis.²¹

Federal Coordination

As provided for in s. 377.703(2)(b)-(d), F.S., the FECC shall:

- Perform or coordinate the functions of any federal energy programs delegated to the state, including energy supply, demand, conservation, or allocation
- Analyze present and proposed federal energy programs and make recommendations regarding those programs to the Governor and the Legislature

¹⁰ <http://www.dep.state.fl.us/climatechange/team/file/phase2report08.pdf>

¹¹ Section 377.806, F.S.

¹² Section 377.807, F.S.

¹³ Section 377.6015(5)(i), F.S.

¹⁴ Sections 377.6015(5)(j) and 366.82, F.S.

¹⁵ Section 377.703(2)(e), F.S.

¹⁶ Section 377.703(2)(f), F.S.

¹⁷ Section 377.703(2)(h), F.S.

¹⁸ Section 377.703(2)(i), F.S.

¹⁹ Section 377.703(2)(j), F.S.

²⁰ Section 377.703(2)(k), F.S.

²¹ Section 377.703(2)(l), F.S.

- Coordinate efforts to seek federal support or other support for state energy activities, including energy conservation, research, or development, and coordinate multiagency energy conservation programs and plans.

Fiscal Information

The federal government, through the American Recovery and Reinvestment Act of 2009 (ARRA), provided stimulus monies to qualifying states to “create new jobs and save existing ones, spur economic activity and invest in long-term growth, and foster unprecedented levels of accountability and transparency in government spending.”²²

The FECC has been coordinating with the federal Department of Energy for the use of the stimulus dollars and has been administering various programs within the following categories:²³

- State Energy Program (SEP): \$126,089,000
- Energy Efficiency & Conservation Block Grant (EECBG): \$30,401,600
- Competitive Grants to Local Governments \$19,477,236
- Plug-In Hybrid Electric Vehicle Conversion Rebate Program \$500,000
- Energy Efficient Appliance Rebate: \$17,585,466
- ENERGY STAR® Residential HVAC Rebate Program: \$15,000,000
- Energy Assurance Grant Program: \$1,881,676

Details regarding the many programs within these categories can be obtained by contacting the FECC directly or by visiting the website for the commission. See *Additional Information* section.

Relevant Florida Statutes, Administrative Rules, and Federal Laws and Regulations

Florida Statutes:

Chapter 377, F.S.

Federal Law:

American Recovery and Reinvestment Act of 2009

EECBG - Title V, Subtitle E of the Energy Independence and Security Act

Additional Information

For additional information concerning the FECC, please refer to the entities listed below:

Florida Energy and Climate Commission

²² http://www.recovery.gov/About/Pages/The_Act.aspx

²³ See the FECC website at

http://myfloridaclimate.com/climate_quick_links/florida_energy_climate_commission/arra_funding_and_opportunities for information on specific programs within the categories.

(850) 487-3800

http://myfloridaclimate.com/climate_quick_links/florida_energy_climate_commission

Florida House of Representatives

Energy & Utilities Subcommittee

(850) 487-1342