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# **Energy & Utilities Subcommittee MEETING PACKET**

**Tuesday, September 20, 2011  
212 Knott Building  
8:30 AM – 10:30 AM**

**Dean Cannon  
Speaker**

**Clay Ford  
Chair**



# The Florida House of Representatives

State Affairs Committee

Energy & Utilities Subcommittee

Dean Cannon  
Speaker

Scott Plakon  
Chair

## AGENDA

September 20, 2011  
8:30 a.m. – 10:30 a.m.  
212 Knott Building

Opening Remarks by Chair Plakon

Introduction of Subcommittee Members and Staff

Presentations from the following:

- Florida's Utility Regulatory Policy  
Art Graham, Chairman  
Florida Public Service Commission
- Florida's Consumer Advocate for Utilities  
J.R. Kelly, Public Counsel  
Office of the Public Counsel
- Governance of Florida's Energy Policy  
Patrick Sheehan, Director, Office of Energy  
Department of Agriculture & Consumer Services

Closing Remarks by Chair Plakon

Adjournment





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## Energy & Utilities Subcommittee

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### **CS/CS/CS/HB 887 - Communications Services Tax**

**By: State Affairs Committee; Finance & Tax Committee; Energy & Utilities Subcommittee; Dorworth**

**Tied Bills: None**

**Companion Bills: CS/CS/SB 1198**

**Committee(s) of Reference: Energy & Utilities Subcommittee; Finance & Tax Committee; State Affairs Committee**

**Category: Taxes**

**Keywords: Communication Taxes, Bracket**

Chapter 202, F.S., provides that sales of communications services, except direct-to-home satellite service, are subject to a state communications services tax (CST), a gross receipt tax, and a local CST. Federal law prohibits direct-to-home satellite service sales from being subject to a local CST. Direct-to-home satellite sales are subject to a different state CST rate and gross receipt rate than that of other communications services sales.

The Department of Revenue (DOR) is required to make available, in an electronic format or otherwise, the tax amounts and brackets applicable to each taxable sale so that the tax collected is not less than allowed by statute. To clarify the law, the DOR has created proposed Rule 12A-19.021, F.A.C. The proposed rule provides that any communications services tax resulting in a fraction of a cent be rounded to the next whole cent.

The bill eliminates the requirement of the DOR to provide tax amounts and brackets to communications services dealers. The bill requires communications services dealers to compute state and local CSTs based on a rounding algorithm. This algorithm must be carried to the third decimal place and be rounded to a whole cent using a method that rounds up to the next cent whenever the third decimal place is greater than four. The bill authorizes a dealer to apply the rounding algorithm to the state CST based on one of three ways:

- Total 9.17 percent;
- Separate 6.65 percent and 2.52 percent; or
- Separate 6.8 (combined .15 percent and 6.65 percent) and 2.37 percent

The bill provides that a dealer may compute the taxes on an item or invoice basis. The aggregate tax amount for all items on the invoice must equal at least the result that would have been obtained if the rounding algorithm had been applied to the aggregate tax amount computed on all taxable items on the invoice. A dealer may satisfy this requirement by setting a minimum tax amount of not less than \$0.01 with respect to each item, or group of items, to which the rounding algorithm is applied. A dealer must apply the rounding algorithm to the local CST separately from the state CST. The bill states that a dealer is not required to collect the taxes based on a bracket system.

The bill provides that the act is intended to be remedial in nature and apply retroactively. However, the act does not provide a basis for an assessment of any tax not paid or create a right to a refund of any tax paid before July 1, 2011.

The 2011 Revenue Estimating Conference estimates that there will not be a fiscal impact on state or local governments.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2011.

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**CS/CS/HB 1231 (ch. 2011-36, L.O.F.) - Telecommunications**

**By: State Affairs Committee; Energy & Utilities Subcommittee; Horner; Williams, A., and others**

**Tied Bills: None**

**Companion Bills: CS/CS/SB 1524**

**Committee(s) of Reference: Energy & Utilities Subcommittee; Appropriations Committee; State Affairs Committee**

**Category: Repeal Of Existing Laws, Utilities**

**Keywords: Telecommunications, Telephone, Phone, Public Service Commission, Internet, Regulation, Business**

In 1995, the Legislature opened local telephone service markets to competition beginning January 1, 1996. The 1995 law allowed an incumbent local exchange company to elect "price regulation" instead of traditional rate-of-return regulation, making it subject to price caps on basic service (i.e., single-line, flat-rate residential local exchange service) and nonbasic service (i.e., any service other than basic service, including a combination of basic service with any nonbasic or unregulated service). The 1995 law retained the Public Service Commission's (PSC) jurisdiction over service quality issues and granted it new authority to address consumer issues in the transition to a sufficiently competitive market. After changes to the law in 2009, local exchange companies remained subject to the price regulation scheme adopted in 1995, with slight modifications to the caps, though only basic service remained subject to service quality oversight by the PSC. According to the PSC, approximately four percent of local service customers are considered basic service customers now.

On August 1, 2010, the PSC issued its Report on the Status of Competition in the Telecommunications Industry as of December 31, 2009. In its Report, the PSC found:

Florida's communications market continues to exhibit competitive characteristics. Estimates of wireless-only households have increased from prior years, and in the most recent reporting period, Florida cable companies expanded the number of VoIP customers served. These facts, coupled with continued residential access line losses by ILECs, suggest an active market for voice communications services in many areas of Florida.

**Legislative Intent**

The bill provides legislative findings that "the competitive provision of telecommunications services, including local exchange telecommunications service, is in the public interest and has provided customers with freedom of choice, encouraged the introduction of new telecommunications service, encouraged technological innovation, and encouraged investment in telecommunications infrastructure."

Consistent with these findings, the bill deregulates retail service provided by local exchange companies through the repeal of several provisions of law, including repeal of all price and service quality regulation. The bill maintains the role of the PSC in resolving wholesale disputes between telecommunications service providers.

#### Deregulation of Telecommunications Services

The bill repeals or amends several provisions of existing law related to the regulation of telecommunications services. Specifically, the bill:

- Eliminates PSC jurisdiction over basic service and nonbasic service offered by a local exchange company;
- Eliminates price regulation caps for basic and nonbasic service offered by a local exchange company and provides such companies with the flexibility to offer competitively priced services;
- Eliminates the requirement that a local exchange company offer flat-rate pricing options;
- Eliminates the PSC's authority to compel repairs for purposes of securing adequate service or facilities for basic service;
- Eliminates the requirement that an alphabetical directory listing (e.g., a phone book) be provided as an element of basic service;
- Removes any remaining PSC oversight of intrastate interexchange telecommunications companies (i.e., companies that provide long distance service between points within the state);
- Eliminates rate caps on pay telephone service providers;
- Exempts operator services from PSC jurisdiction and removes any statutory operational and billing requirements for operator service providers;
- Eliminates shared tenant services from PSC jurisdiction; and
- Eliminates PSC jurisdiction over otherwise exempt services where such jurisdiction is specifically authorized by federal law.

The bill directs the PSC to reduce the regulatory assessment fees it imposes on telecommunications companies to reflect the reduction in its regulatory responsibilities.

The bill repeals requirements related to the development of a state universal service mechanism.

#### Certification of Service Providers

The bill provides that either a certificate of necessity or a certificate of authority is required to provide telecommunications service to the public in Florida. The bill provides that the PSC shall cease to provide certificates of necessity after July 1, 2011, though existing certificates of necessity will remain valid. The bill also establishes the process and requirement for obtaining a certificate of authority to provide telecommunications service to the public in Florida. The PSC must grant a certificate of authority to provide telecommunications service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served.

The bill provides that the transfer of a certificate of necessity or authority from the certificate holder's parent company or affiliate or to another person holding a certificate, or its parent company or affiliate, may occur without prior approval of the PSC, provided that notice of the transfer is provided to the PSC within 60 days after completion of the transfer. The transferee assumes the rights and obligations conferred by the certificate.

### Consumer Education and Assistance

The bill repeals or amends several other provisions of existing law to reflect the deregulation of local exchange service in light of the development of competition. Specifically, the bill:

- Removes obsolete requirements to educate consumers concerning the transition from a regulated monopoly system to a competitive market for local exchange service;
- Removes the PSC's authority to assist customers in resolving billing and service disputes involving regulated companies and services;
- Eliminates the requirement that local exchange companies disclose to residential customers the lowest cost option when service is requested and advise customers annually of the price of each service option they have selected;
- Maintains the PSC's authority to adopt rules and resolve complaints regarding the unauthorized changing of a customer's telecommunications service, referred to as "slamming";
- Maintains the PSC's authority to provide consumer education and information concerning the Lifeline and Link-Up programs;
- Eliminates the requirement that billing parties provide detailed bills and a toll-free number that must be answered by a customer service representative or a voice response unit;
- Removes a provision stating that a customer is not liable for any charges for services that the customer did not order, referred to as "cramming"; and
- Removes the PSC's authority to regulate the terms of contracts between a telecommunications company and its customers.

### Competitive Market Oversight

The bill describes the PSC's authority to oversee carrier-to-carrier relationships and to prevent anticompetitive behavior, including, but not limited to, issues involving the resale of services, number portability, dialing parity, access to rights of way, access to poles and conduits, and reciprocal compensation. It also maintains the PSC's authority to arbitrate and enforce interconnection agreements in accordance with applicable Federal law and regulations.

### Adoption of Broadband Service

The bill amends existing law related to the deployment and adoption of broadband Internet service throughout Florida. The bill removes broadband "deployment" as the intent of the law, providing instead that the law's intent is to promote "sustainable adoption" of broadband Internet service. "Sustainable adoption" is defined in the bill as "the ability for communications service providers to offer broadband services in all areas of the state by encouraging adoption and utilization levels that allow for these services to be offered in the free market absent the need for governmental subsidy." The bill reflects this change in focus through the priority given to projects for purposes of awarding grants.

This bill became law on May 5, 2011, chapter 2011-36, Laws of Florida, and becomes effective July 1, 2011.

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**SB 2106 - Florida Energy and Climate Commission**

**By: Budget**



**Tied Bills: None**

**Companion Bills: Includes part(s) of HB 7217 and SB 2156**

**Committee(s) of Reference: None**

**Category: Agriculture, Budget, Energy**

**Keywords: Energy and Climate Commission, Renewable Energy, Conservation, Petroleum, Climate Change, Budget**

Since 1975, energy-related policy issues have been administered by several state agencies, including the Departments of Administration, Community Affairs, Environmental Protection, and most recently, the Executive Office of the Governor through the Florida Energy and Climate Commission (FECC or Commission).

The FECC was established by the Legislature in 2008 as the state entity responsible for recommending, implementing, and coordinating Florida's energy policy and for coordinating all federal energy programs delegated to the state. The 2008 legislation merged the Department of Environmental Protection's Florida Energy Office with the Legislature's Florida Energy Commission and administratively placed the new Commission within the Executive Office of the Governor.

The FECC is comprised of nine members: seven appointed by the Governor and one each by the Chief Financial Officer and the Commissioner of Agriculture, all subject to Senate confirmation. By law, the Governor selects the chair of the Commission. The Commissioners are not salaried employees, but are reimbursed per diem for travel, if needed. The Commission, however, is authorized by statute to employ staff and counsel. Fifteen (15) fulltime equivalent employees staff the Commission and are housed within the Governor's Energy Office (Energy Office), which is the administrative office of the FECC.

The FECC is statutorily charged with a variety of responsibilities, such as administering various renewable energy and energy-efficiency grant programs and specific financial incentive programs; developing a fair and equitable petroleum allocation plan for the state; performing or coordinating the functions of any federal energy programs delegated to the state and coordinating efforts to seek federal support for state energy activities; administering the Coastal Energy Impact Program; and developing, coordinating, and promoting a comprehensive research plan for state programs, consistent with state energy policy.

The FECC is required to serve as an advocate for energy and climate change issues and provide educational outreach and technical assistance in cooperation with the state's academic institutions. The director of the Florida Energy Systems Consortium is directed to consult with and report to the FECC. Further, the Commission is charged with helping Florida build an energy efficient economy through programs to encourage energy conservation and promote the use of alternative energy sources.

In 2009, through the American Recovery and Reinvestment Act of 2009 (ARRA), the federal government provided stimulus monies to qualifying states for energy-related programs and the FECC received approximately \$176 million to be administered over a three-year period (2009-2012) within the state. This allocation was a substantial increase to the Commission's recent average funding levels of approximately \$20 million.

With the ARRA funding, the focus of the Energy Office has changed and the primary role and function has become grant management. The FECC calculated that the number of financial transactions completed in a month for the Energy Office is approximately equal to the total amount of other financial transactions completed in a year for the entire Executive Office of the Governor.

The Department of Agriculture and Consumer Services (DACS) has had a role in managing some aspects of energy-related projects with the establishment of the Farm-to-Fuel Initiative in 2006, specifically “to enhance the market for and promote the production and distribution of renewable energy from Florida-grown crops, agricultural wastes and residues, and other biomass and to enhance the value of agricultural products or expand agribusiness in the state.” In 2007, the Legislature appropriated \$25 million to the DACS to establish the Farm-to-Fuel Grants Program to provide matching grants for demonstration, commercialization, research, and development projects relating to bioenergy projects. In 2008, the Legislature directed the DACS to administer the Renewable Fuel Standard and to be a consultant to the FECC when awarding bioenergy projects for renewable technology.

SB 2106 accomplishes the following:

- Abolishes the nine-member Florida Energy and Climate Commission.
- Except where otherwise specified, provides for a Type Two Transfer of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts to the DACS.
- Transfers the duties from the FECC for petroleum allocation planning and emergency contingency planning programs to the newly-created Division of Emergency Management within the Executive Office of the Governor.
- Transfers administration of the federal Coastal Energy Impact Program to the Department of Environmental Protection.
- Transfers coordination and review, in consultation with the DACS, of the energy conservation programs of all state agencies to the Department of Management Services.
- Creates the Office of Energy and Water within the DACS.
- Authorizes the DACS to submit an amendment to the Legislative Budget Commission for increased budget authority for a fixed capital outlay appropriation for federal energy grants.
- Makes conforming changes to applicable statutes and cross-references.

Subject to the Governor’s veto powers, the effective date of this bill is July 1, 2011.

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*Presentation to the*  
**House Energy & Utilities  
Sub-Committee**

September 20, 2011



Chairman Art Graham  
Florida Public Service Commission

# Florida Public Service Commission

The PSC is charged by the Legislature to:

- Ensure electric, natural gas, water, and wastewater services delivered safely, reliably, at reasonable cost.
- Regulate telecom number portability, Lifeline Assistance Program, and company to company interconnection.



# Electricity Regulation Highlights

- Rates and quality of service of five investor-owned utilities.
- Rate **structure** for 35 municipal and 16 rural co-op utilities.
- Safety, grid reliability, and ten-year plans for meeting bulk power needs.
- Demand-side management (conservation and peak load control) for investor owned utilities and two municipals.
- Bulk power purchases from renewable energy generators.

# Electric Utility Cost Control

- All feasible resources to meet customer needs:
  - Conservation
  - Power purchases from renewable generators
  - Power purchases from other utilities
  - Refurbish or upgrade existing generation
  - Build new generation capacity
- Only prudent costs can be recovered in rates – unnecessary facilities or incur unnecessary costs



## Electric Energy – Current Issues

- Increasing reliance on natural gas for power generation is reducing fuel diversification.
- Nuclear construction has a high front-end cost under advance cost recovery.
- Demand Side Management programs promote conservation, but at an increasingly steep cost.
- Policy decisions on renewable energy continue to be raised in the legislature.

## Demand Side Management (Conservation)

- Did **not** reduce programs – maintained same levels.
- Legislature authorized PSC to turn down any undue impact on customer cost.
- Programs have cut peak demand by 6,500 MW – equal to 40 conventional generating units.
- Customers were billed \$2.5 billion over last 10 years to support DSM programs.

# Telecommunications

In 2011, the Florida Legislature continued deregulating telecommunications.

The law repealed:

- Rate caps on retail services.
- Consumer protection and assistance by the PSC.
- Oversight of service quality.
- Authority over cramming and slamming complaints.



# Telecommunications – Ongoing

- **Company-to-company interconnection:**
  - Arbitration and contract interpretation.
  - Assuring interconnections work well
- **Number portability.**
- **Lifeline and Telephone Relay Service.**
- **Monitoring federal matters impacting Florida carriers and consumers.**

# Natural Gas Regulation

- Regulatory authority over eight local distribution companies which sell to end-users – but not municipals.
  - Rates and charges.
  - Service issues.
  - Territorial agreements and disputes
- Safety evaluations for investor-owned and municipally-owned utilities.

# Water and Wastewater Regulation

- Regulation of investor-owned water and wastewater companies in 36 counties:
  - Rates and charges.
  - Service quality.
  - Territories.
- The PSC does not regulate publicly-owned water and wastewater utilities.

# Critical Dockets

- **Existing:**
  - Base Rate Increase by Gulf Power Company - Docket 110138-EI.
  - Aqua Utilities of Florida Rate Increase - Docket 100300-WS.
  - Nuclear Cost Recovery - Docket: 110009-EI.
  - Fuel and Purchased Power Cost Recovery Clause - Docket 110001-EI.
  - Examination of outage and replacement fuel/power costs, Progress Energy's Crystal River Nuclear Unit 3 - Docket 100437-EI.
  
- **Potential:**
  - Need determination for a natural gas pipeline by FPL
  - Request for base rate increase by FPL
  - Request for base rate increase by Progress Energy











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*Advocates for Fair Utility Rates*

# OVERVIEW

- Created by ss. 350.061 – 350.0614
- Part of the Legislature
- Independent of the Florida Public Service Commission (PSC)



- Provide legal representation for Florida ratepayers on issues:
  - Before the PSC
  - Before counties that opt out of PSC jurisdiction on water/wastewater cases
- Represent ratepayers collectively, not individually

# ● Implement Lifeline Program

- Call Center
- Verify income eligibility



# Current Activity

- Nuclear cost recovery
- Gulf Power rate case
- Other cost recovery or pass-through dockets
- PEF delamination case (CR3)
- FPL/PEF rate cases expected in 2012
- Aqua Utilities
- Water/wastewater cases

# QUESTIONS?

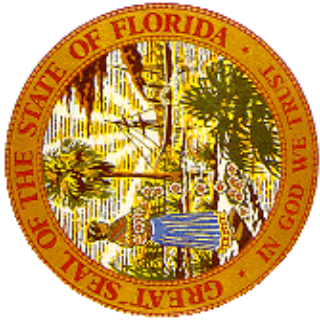


**Advocates for Fair Utility Rates**









# Office of Energy

## House Energy and Utilities Subcommittee Chair Plakon

September 20, 2011

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES  
COMMISSIONER ADAM H. PUTNAM



# Office of Energy Transfer

- SB 2156 transferred Office of Energy (OOE) from the Executive Office of the Governor to the Department of Agriculture and Consumer Services on July 1, 2011.
- Florida Energy and Climate Commission was dissolved in the same bill on June 30, 2011.





# Functions & Responsibilities

- Coordinate Federal & State energy programs & Administer Grants
- Produce Annual Energy Report
  - Baseline assessment of Florida’s energy resources
  - Improvements for Energy Efficiency & Conservation
  - State Agency implementation of State Energy Policy
- Provide Analysis and Prepare Recommendations
  - Proposed Federal energy programs
  - Long range energy supply and demand scenarios (economic growth, renewables development, alternative strategies - 5-10-20 years)

# Responsibilities (Cont.)

- Promote and advocate for the development and use of renewable energy resources and energy efficiency technologies
  - Enhance Florida’s position as leader in solar energy use, R&D
- Promote energy efficiency and conservation measures in all energy use sectors
- Serve as State clearing house for all energy information (academia, public and private sectors)
- Provide assistance to other state agencies, counties, municipalities, and regional planning agencies to further and promote their energy planning activities

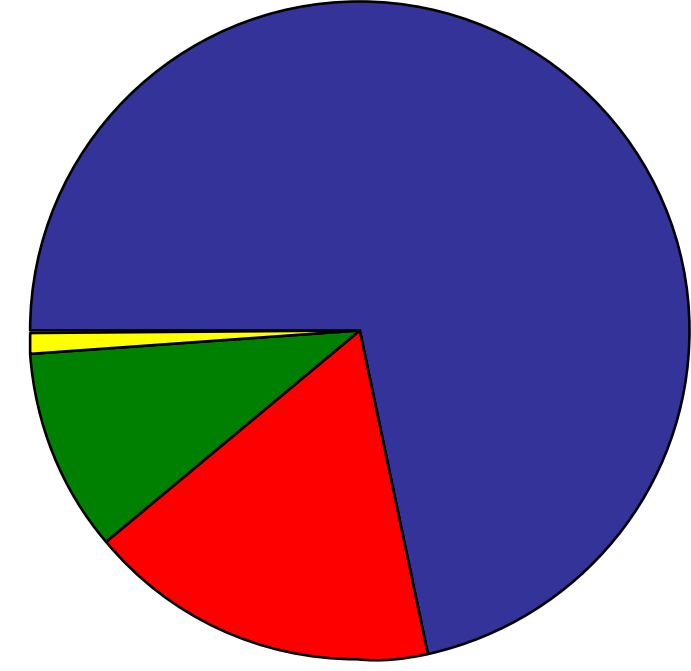


# OOE Structure & Opportunities for Change

- Staffing - Current make up of 15 FTEs & 8 OPS
  - Current alignment heavily skewed towards grant/rebate admin. (75%)
  - Adapting for the Future (emphasis on policy analysis, measuring success & lessons learned recommendations)
- Funding - Exclusively Grants - No General Revenue
  - Total Admin costs for OOE = \$2,101,583
  - Admin & Overhead costs = 4.2% of Grants
- DACS Inspector General Review
  - DACS IG has reviewed previous State & DOE audits
  - Comprehensive audit of programs
- DACS Transition
  - Stability & Predictability – Ability and Support to Plan & Evolve
  - Support Resource Availability – HR, Finance, Legal, IT



# 2009-2012 Federal American Recovery and Reinvestment Act (ARRA)



- State Energy Program - \$126,089,000
- Energy Efficiency & Conservation Block Grant - \$30,401,600
- Energy Efficient Appliance Rebate - \$17,585,466
- Energy Assurance Grant - \$1,881,676

TOTAL FUNDING.....\$175,957,276







# Overview of ARRA State Energy Program

- Florida Clean Energy Grants
- Solar for Schools & Storm Shelters
- Shovel Ready Grants
- Compressed Natural Gas (CNG) Fleet Fueling Grants
- E85/B20 Fueling Retrofit Grants
- Florida Energy Opportunity Fund
- Energy STAR Residential Heating, Ventilation & Air Conditioning (HVAC) Retrofit Rebates ([program completed](#))
- Solar Rebate Program



A large, stylized sun graphic with yellow rays and a semi-circle at the bottom left, partially overlapping the title.

# Solar Rebates

- Where we are now?
- When will the checks go out?
- Ensuring quality customer service
- There are approximately **10,900** total approved applications
- There is approximately **\$25 million** available to pay out the unfunded applications
- Accomplishments



# Solar Rebate Timeline

2006- Legislature passes SB 888 which creates the solar rebate program and appropriates \$2.5 million to the solar rebate program (expended in 11 months)

July 2008 - State Legislature appropriates \$5 million to the solar rebate program (expended in 11 months)

July 2007 - State Legislature appropriates \$3.5 million to the solar rebate program (expended in 7 months)

September 2009 approval of \$14.4 million in SEP - ARRA funds to the solar rebate program to pay backlogs up to June 2009

November 2010 - Florida Legislature passes HB 15A which appropriated more money to the HVAC and Solar Rebate programs

September 2011 - Finalizing check payment with the Department of Financial Services

June 2010 - solar rebate programs expires in statute with \$45 million in unfunded applications

April 2011 - Pay out of the HVAC rebate program complete; leaving approximately \$25 million to pay out the unfunded solar rebates





# Overview of ARRA Grant Categories Continued

## ARRA - EECBG

- Competitive Grants to Local Governments
- Energy Code – Compliance, Training and Education
- Electric Car Conversion Rebates
- Clean Tech Economic Development Strategy
- Sunshine State Buildings

## ARRA – Additional Grants

- Energy STAR Appliance Rebates ([program completed](#))
- Energy Assurance Grants
  - Subgrant to the Division of Emergency Management
  - Subgrant to the Florida Department of Law Enforcement



# Overview of State Grant Categories

- Florida's Renewable Energy and Energy-  
Efficient Technologies (REET) Grants:
  - Currently administering 12 state funded R&D grants to public and private entities
  - Awarded over \$23 million since 2006
- Farm to Fuel Grants:
  - Awarded \$25 million for 4 commercial scale and 8 R&D projects
  - 5 projects completed, 6 progressing on time, 1 negotiating an extension



# What's Ahead



- Payout of the Solar Rebate Program;
- Continue to administer and monitor our ARRA funded programs to ensure successful on time completion;
- Provide an Annual Energy Report to the Governor and legislature this year; and
- Work with the legislature and Governor's office to collectively advance Florida's energy policy.
- *Florida Energy Summit - October 26-28, 2011*







# Florida Energy Summit

October 26-28, 2011

Rosen Shingle Creek

Orlando, Florida

[www.floridaenergysummit.com](http://www.floridaenergysummit.com)

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Office of Energy

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES  
COMMISSIONER ADAM H. PUTNAM

