

By the Committee on Communications, Energy, and Public Utilities

579-03184-11

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1                                   A bill to be entitled  
2           An act relating to energy; amending s. 366.82, F.S.;  
3           requiring all public utilities to perform a free  
4           energy audit of the business structures of commercial  
5           customers; providing that the audit is deemed  
6           satisfied under certain conditions; amending s.  
7           255.252, F.S.; requiring the Department of Management  
8           Services to prioritize buildings for an energy audit  
9           and retrofits and to proceed with performing those  
10          audits and retrofits; amending s. 366.92, F.S.;  
11          deleting obsolete provisions; providing new conditions  
12          for full cost recovery for regulated electric  
13          utilities for the costs of renewable energy projects;  
14          providing a mechanism for providers to recover costs  
15          to produce or purchase renewable energy through the  
16          environmental cost-recovery clause under certain  
17          conditions; requiring providers to make reports;  
18          creating s. 366.95, F.S.; providing for the  
19          development of a state energy resources plan by the  
20          Public Service Commission; establishing requirements  
21          for the plan; requiring the Public Service Commission  
22          to make certain determinations; providing criteria;  
23          requiring the additional renewable energy resources to  
24          be obtained pursuant to the bid process; providing for  
25          cost recovery for new facilities developed under the  
26          plan; providing that a determination by the commission  
27          constitutes a determination of need and the required  
28          agency report; requiring the commission to review the  
29          state energy resources plan biennially; transferring

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30 all of the powers, property, unexpended balances of  
31 appropriations, allocations, and administrative  
32 authority of the Florida Energy and Climate Commission  
33 to the Florida Energy Office by a type two transfer;  
34 amending s. 377.6015, F.S.; locating the Florida  
35 Energy Office within the Department of Environmental  
36 Protection; specifying that the office is not subject  
37 to control, supervision, or direction by the  
38 Department of Environmental Protection and exempting  
39 the office from certain provisions; providing for the  
40 administrative structure of the Florida Energy Office;  
41 providing for the powers and duties of the Florida  
42 Energy Office; providing an effective date.

43  
44 Be It Enacted by the Legislature of the State of Florida:

45  
46 Section 1. Subsection (11) of section 366.82, Florida  
47 Statutes, is amended to read:

48 366.82 Definition; goals; plans; programs; annual reports;  
49 energy audits.—

50 (11) (a) The commission shall require each utility to offer,  
51 or to contract to offer, energy audits to its residential  
52 customers. This requirement need not be uniform, but may be  
53 based on such factors as level of usage, geographic location, or  
54 any other reasonable criterion, so long as all eligible  
55 customers are notified. The commission may extend this  
56 requirement to some or all commercial customers. The commission  
57 shall set the charge for audits by rule, not to exceed the  
58 actual cost, and may describe by rule the general form and

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59 content of an audit. In the event one utility contracts with  
60 another utility to perform audits for it, the utility for which  
61 the audits are performed shall pay the contracting utility the  
62 reasonable cost of performing the audits. Each utility over  
63 which the commission has ratesetting authority shall estimate  
64 its costs and revenues for audits, conservation programs, and  
65 implementation of its plan for the immediately following 6-month  
66 period. Reasonable and prudent unreimbursed costs projected to  
67 be incurred, or any portion of such costs, may be added to the  
68 rates which would otherwise be charged by a utility upon  
69 approval by the commission, provided that the commission shall  
70 not allow the recovery of the cost of any company image-  
71 enhancing advertising or of any advertising not directly related  
72 to an approved conservation program. Following each 6-month  
73 period, each utility shall report the actual results for that  
74 period to the commission, and the difference, if any, between  
75 actual and projected results shall be taken into account in  
76 succeeding periods. The state plan as submitted for  
77 consideration under the National Energy Conservation Policy Act  
78 must shall not be in conflict with any state law or regulation.

79 (b) Before December 31, 2016, each public utility shall, in  
80 writing, offer to conduct a free energy audit of the business  
81 structures of each commercial customer within its service  
82 territory and provide the customer with a report that includes  
83 options for energy savings improvements and any available  
84 financial assistance for said improvements. If a customer has  
85 been audited in the previous 5 years before July 1, 2011, this  
86 requirement is deemed satisfied.

87 Section 2. Subsection (5) of section 255.252, Florida

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88 Statutes, is amended to read:

89 255.252 Findings and intent.—

90 (5) Each state agency occupying space within buildings  
91 owned or managed by the Department of Management Services must  
92 identify and compile a list of projects determined to be  
93 suitable for a guaranteed energy, water, and wastewater  
94 performance savings contract pursuant to s. 489.145. The list of  
95 projects compiled by each state agency shall be submitted to the  
96 Department of Management Services by December 31, 2008, and must  
97 include all criteria used to determine suitability. The list of  
98 projects shall be developed from the list of state-owned  
99 facilities more than 5,000 square feet in area and for which the  
100 state agency is responsible for paying the expenses of utilities  
101 and other operating expenses as they relate to energy use. In  
102 consultation with the head of each state agency, by July 1,  
103 2009, the department shall prioritize all projects deemed  
104 suitable by each state agency and shall develop an energy-  
105 efficiency project schedule based on factors such as project  
106 magnitude, efficiency and effectiveness of energy conservation  
107 measures to be implemented, and other factors that may prove to  
108 be advantageous to pursue. The schedule shall provide the  
109 deadline for guaranteed energy, water, and wastewater  
110 performance savings contract improvements to be made to the  
111 state-owned buildings. Beginning on July 1, 2011, in  
112 consultation with the head of each state agency, the Department  
113 of Management Services shall develop a prioritized list of  
114 buildings on which to have an energy audit performed. The  
115 Department of Management Services shall then proceed to perform  
116 the energy savings retrofits in the order of the anticipated

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117 shortest payback period.

118 Section 3. Section 366.92, Florida Statutes, is amended to  
119 read:

120 366.92 Florida renewable energy policy.—

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

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

131 (a) "Florida renewable energy resources" means renewable  
132 energy, as defined in s. 377.803, that is produced in Florida.

133 (b) "Provider" means a "utility" as defined in s.  
134 366.8255(1)(a).

135 (c) "Renewable energy" means renewable energy as defined in  
136 s. 366.91(2)(d).

137 ~~(d) "Renewable energy credit" or "REC" means a product that~~  
138 ~~represents the unbundled, separable, renewable attribute of~~  
139 ~~renewable energy produced in Florida and is equivalent to 1~~  
140 ~~megawatt-hour of electricity generated by a source of renewable~~  
141 ~~energy located in Florida.~~

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

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146       (3) (a) A provider may petition the commission through July  
147 1, 2016, for recovery of costs to produce or purchase renewable  
148 energy. A provider may develop renewable energy projects and  
149 recover all related costs as provided herein. A provider may  
150 build Florida renewable energy resources, convert existing  
151 fossil fuel generation plants to a Florida renewable energy  
152 resource, or purchase renewable energy. If a provider opts to  
153 develop renewable energy pursuant to this subsection, at least  
154 25 percent of the total nameplate capacity for which a provider  
155 is permitted to recover costs in any calendar year under this  
156 subsection must be produced or purchased from renewable energy  
157 resources other than solar energy. In the case of a purchase of  
158 non-solar renewable energy, the provider must purchase actual  
159 production from nameplate capacity of that amount.

160       (b) After the completion of construction of a new renewable  
161 energy project, the completion of the conversion of an existing  
162 facility to renewable energy, or the completion of a purchase of  
163 renewable energy, and the filing by a provider of a petition for  
164 approval of cost recovery, the commission must schedule a formal  
165 administrative hearing within 10 days after the date of the  
166 filing of the petition and vote on the petition within 90 days  
167 after the date of the filing.

168       (c)1. The costs incurred by a provider in connection with  
169 the construction or conversion, operation, and maintenance of a  
170 renewable energy project are deemed to be prudent for purposes  
171 of cost recovery so long as the provider has used reasonable and  
172 customary industry practices in the design, procurement, and  
173 construction of the project in a cost-effective manner that is  
174 appropriate for the type of renewable energy facility and

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175 appropriate to the location of the facility. A provider may  
176 recover all prudently incurred costs of renewable energy under  
177 the environmental cost-recovery clause provisions of s.  
178 366.8255. As part of the cost-recovery proceedings, the provider  
179 must report to the commission the construction costs, in-service  
180 costs, operating and maintenance costs, hourly energy production  
181 of the renewable energy project, and any other information  
182 deemed relevant by the commission.

183 2. The commission must allow full cost recovery over the  
184 entire useful life of the Florida renewable energy resource of  
185 the revenue requirements using traditional declining balance  
186 amortization of all reasonable and prudently incurred costs,  
187 including, but not limited to, the following:

188 a. The siting, licensing, engineering, design, permitting,  
189 construction, operation, and maintenance of a renewable energy  
190 facility and associated transmission facilities by the provider.  
191 For purposes of this paragraph, the term "cost" includes, but is  
192 not limited to, all capital investments, including rate of  
193 return, and any applicable taxes and all expenses, including  
194 operation and maintenance expenses;

195 b. The costs associated with the purchase of capacity and  
196 energy from new renewable energy resources;

197 c. The costs for conversion of an existing fossil fuel  
198 generating plant to a renewable energy facility, including the  
199 costs of retirement of the fossil fuel generation plant.

200 (d) The cost of producing or purchasing renewable energy in  
201 any calendar year may not exceed 2 percent of the investor-owned  
202 utility's total revenue from retail sales of electricity for the  
203 2010 calendar year.

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204       (e) A provider must submit the proposed project to the same  
205 bid process as with any other generating facility to develop a  
206 renewable energy project.

207       (f) If a provider pays costs for purchased power above the  
208 provider's full avoided costs, the seller must surrender to the  
209 provider all renewable attributes of the energy being purchased  
210 by the provider.

211       (g) Any revenues or other economic benefit that is derived  
212 from any renewable energy credit, carbon credit, or other  
213 mechanism that attributes value to the production of renewable  
214 energy and that is received by a provider relating to renewable  
215 energy or other carbon-neutral or carbon-free means of producing  
216 electricity must be shared with the provider's ratepayers, such  
217 that the ratepayers are credited with at least 90 percent of  
218 such revenues or of the value of such other economic benefit.

219       (h) The Legislature finds that there is a need for the  
220 renewable energy facilities to be developed pursuant to this  
221 subsection and this legislative finding serves as the  
222 determination of need required under s. 403.519 and as the  
223 commission's agency report required under s. 403.507(4)(a). This  
224 legislative determination of need creates a presumption of  
225 public need and necessity which may not be raised in any other  
226 forum or in the review of proceedings in such other forum and  
227 substitutes for the commission's report required by s.  
228 403.507(4).

229       (i) Each provider obtaining cost recovery under this  
230 subsection must, for the duration of the recovery period, file  
231 an annual report with the commission containing the information  
232 required in this subsection and any other information the



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233 commission deems necessary. The commission must gather all such  
234 reports annually and file a report with the Governor, the  
235 President of the Senate, and the Speaker of the House of  
236 Representatives not later than March 1 of each year. Each  
237 provider report must contain the following:

238 1. A description of the project, including a description of  
239 the technology used, the size of the project, and its location.

240 2. A description and the amounts of the costs of  
241 construction, operation, and maintenance of the project.

242 3. A description and the total number of the jobs created  
243 as a result of the project, including how long each job lasted.

244 4. A description of the impact of the project on existing  
245 and planned generation and transmission facilities and on  
246 ratepayers, including how much production by traditional means  
247 was avoided, any planned traditional plants included in the 10-  
248 year site plan which were made unnecessary, any additional  
249 transmission that was necessary, a description of any impact on  
250 grid security and reliability, and a description of the price  
251 impact on ratepayers.

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

261 ~~(a) In developing the rule, the commission shall evaluate~~

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262 ~~the current and forecasted levelized cost in cents per kilowatt~~  
263 ~~hour through 2020 and current and forecasted installed capacity~~  
264 ~~in kilowatts for each renewable energy generation method through~~  
265 ~~2020.~~

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

267 ~~1. Shall include methods of managing the cost of compliance~~  
268 ~~with the renewable portfolio standard, whether through direct~~  
269 ~~supply or procurement of renewable power or through the purchase~~  
270 ~~of renewable energy credits. The commission shall have~~  
271 ~~rulemaking authority for providing annual cost recovery and~~  
272 ~~incentive based adjustments to authorized rates of return on~~  
273 ~~common equity to providers to incentivize renewable energy.~~  
274 ~~Notwithstanding s. 366.91(3) and (4), upon the ratification of~~  
275 ~~the rules developed pursuant to this subsection, the commission~~  
276 ~~may approve projects and power sales agreements with renewable~~  
277 ~~power producers and the sale of renewable energy credits needed~~  
278 ~~to comply with the renewable portfolio standard. In the event of~~  
279 ~~any conflict, this subparagraph shall supersede s. 366.91(3) and~~  
280 ~~(4). However, nothing in this section shall alter the obligation~~  
281 ~~of each public utility to continuously offer a purchase contract~~  
282 ~~to producers of renewable energy.~~

283 ~~2. Shall provide for appropriate compliance measures and~~  
284 ~~the conditions under which noncompliance shall be excused due to~~  
285 ~~a determination by the commission that the supply of renewable~~  
286 ~~energy or renewable energy credits was not adequate to satisfy~~  
287 ~~the demand for such energy or that the cost of securing~~  
288 ~~renewable energy or renewable energy credits was cost~~  
289 ~~prohibitive.~~

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

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291 ~~solar photovoltaic over other forms of renewable energy, whether~~  
292 ~~directly supplied or procured or indirectly obtained through the~~  
293 ~~purchase of renewable energy credits.~~

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

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

299 ~~6. Shall ensure that energy credited toward compliance with~~  
300 ~~the requirements of this section is not credited toward any~~  
301 ~~other purpose.~~

302 ~~7. Shall include procedures to track and account for~~  
303 ~~renewable energy credits, including ownership of renewable~~  
304 ~~energy credits that are derived from a customer-owned renewable~~  
305 ~~energy facility as a result of any action by a customer of an~~  
306 ~~electric power supplier that is independent of a program~~  
307 ~~sponsored by the electric power supplier.~~

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

311 ~~(c) Beginning on April 1 of the year following final~~  
312 ~~adoption of the commission's renewable portfolio standard rule,~~  
313 ~~each provider shall submit a report to the commission describing~~  
314 ~~the steps that have been taken in the previous year and the~~  
315 ~~steps that will be taken in the future to add renewable energy~~  
316 ~~to the provider's energy supply portfolio. The report shall~~  
317 ~~state whether the provider was in compliance with the renewable~~  
318 ~~portfolio standard during the previous year and how it will~~  
319 ~~comply with the renewable portfolio standard in the upcoming~~

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320 year.

321 ~~(4) In order to demonstrate the feasibility and viability~~  
322 ~~of clean energy systems, the commission shall provide for full~~  
323 ~~cost recovery under the environmental cost-recovery clause of~~  
324 ~~all reasonable and prudent costs incurred by a provider for~~  
325 ~~renewable energy projects that are zero greenhouse gas emitting~~  
326 ~~at the point of generation, up to a total of 110 megawatts~~  
327 ~~statewide, and for which the provider has secured necessary~~  
328 ~~land, zoning permits, and transmission rights within the state.~~  
329 ~~Such costs shall be deemed reasonable and prudent for purposes~~  
330 ~~of cost recovery so long as the provider has used reasonable and~~  
331 ~~customary industry practices in the design, procurement, and~~  
332 ~~construction of the project in a cost-effective manner~~  
333 ~~appropriate to the location of the facility. The provider shall~~  
334 ~~report to the commission as part of the cost-recovery~~  
335 ~~proceedings the construction costs, in-service costs, operating~~  
336 ~~and maintenance costs, hourly energy production of the renewable~~  
337 ~~energy project, and any other information deemed relevant by the~~  
338 ~~commission. Any provider constructing a clean energy facility~~  
339 ~~pursuant to this section shall file for cost recovery no later~~  
340 ~~than July 1, 2009.~~

341 (4)~~(5)~~ Each municipal electric utility and rural electric  
342 cooperative shall develop standards for the promotion,  
343 encouragement, and expansion of the use of renewable energy  
344 resources and energy conservation and efficiency measures. On or  
345 before April 1, 2009, and annually thereafter, each municipal  
346 electric utility and electric cooperative shall submit to the  
347 commission a report that identifies such standards.

348 (5)~~(6)~~ Nothing in this section shall be construed to impede

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349 or impair terms and conditions of existing contracts or to  
350 require renegotiation or repricing of existing contracts.

351 (6) ~~(7)~~ The commission may adopt rules to administer and  
352 implement the provisions of this section.

353 Section 4. Section 366.95, Florida Statutes, is created to  
354 read:

355 366.95 State energy resources plan.—

356 (1) The Legislature finds that increased use of renewable  
357 energy in this state would have the following benefits:

358 (a) Renewable energy can help with issues relating to fuel  
359 used to generate electricity;

360 (b) Renewable energy can help reduce carbon emissions; and

361 (c) Renewable energy can produce jobs.

362 (2) The state currently has very little renewable energy in  
363 production, with renewable energy constituting approximately 2  
364 percent of all electricity sold at retail. Quickly increasing  
365 the use of renewable energy would be costly to ratepayers. Each  
366 of the regulated utilities is different in customer base,  
367 generation fleet, and transmission and distribution requirements  
368 and would be affected differently by a renewable energy  
369 requirement, making a mandate inappropriate. In lieu of a  
370 mandate, the commission shall develop a state energy resources  
371 plan as an expansion of its duties relating to the 10-year site  
372 plan requirements of s. 186.801. As a part of this planning  
373 process, the commission shall look beyond the 10-year period to  
374 a 20-year period.

375 (3) The Public Service Commission shall develop a plan  
376 that:

377 (a) Forecasts:

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378 1. The demand for electricity;

379 2. The energy supply requirements needed to satisfy this  
380 projected demand, including the amount of capacity needed to  
381 provide adequate reserve margins and capacity needed to ensure  
382 reliability;

383 3. The ability of the existing energy supply sources and  
384 the existing transmission systems to satisfy the state's energy  
385 needs together with those sources or systems reasonably certain  
386 to be available, including planned additions, retirements,  
387 substantial planned outages, and any other expected changes in  
388 levels of generating and production capacity; and

389 4. The additional electric capacity or transmission systems  
390 needed to meet such energy supply requirements that will not be  
391 met by existing sources of supply and those reasonably certain  
392 to be available, where such analysis should identify system  
393 constraints and possible alternatives available, both supply-  
394 side and demand-side alternatives, including, but not limited  
395 to, distributed generation, energy efficiency, and conservation  
396 measures, to redress such constraint.

397 (b) Identifies and assesses the costs, risks, benefits, and  
398 uncertainties of energy supply source alternatives, including  
399 demand-reducing measures, renewable energy resources,  
400 distributed generation technologies, cogeneration technologies,  
401 and other methods and technologies reasonably available for  
402 satisfying energy supply requirements.

403 (c) Identifies and analyzes emerging trends related to  
404 energy supply, price, and demand.

405 (d) Identifies potential future sites for biomass power  
406 plants and solar power plants.

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407 (e) Identifies potential future sites for transmission and  
408 distribution lines.

409 (f) Determines optimal percentages of fuels and  
410 technologies, both traditional and renewable, in the electric  
411 generation fleet for the next 20-year period.

412 (g) Determines the process and timeline for incorporating  
413 renewable energy resources into the generation fleet, and  
414 addresses redundancy of plants, both necessary and unnecessary,  
415 and the retirement of unnecessary existing plants.

416 (h) Determines if any changes should be made to capacity,  
417 including any additions or retirements, and if any additional  
418 transmission or distribution lines are necessary.

419 (4) The commission shall consider the following in making a  
420 determination whether a renewable energy resource should be  
421 added to the generation and production fleet:

422 (a) The societal benefits of renewable energy;

423 (b) The necessity of maintaining an adequate and reliable  
424 source for energy and capacity needs;

425 (c) The necessity of maintaining an adequate and reliable  
426 transmission and distribution grid;

427 (d) The necessity to maintain fuel mix and diversity and  
428 source reliability and to minimize price fluctuations; and

429 (e) The necessity of minimizing overall price impacts to  
430 ratepayers.

431 (5) (a) A public utility may obtain additional renewable  
432 energy resources pursuant to this section if the commission  
433 determines that renewable energy resources should be added to  
434 the generation and production fleet by building a renewable  
435 energy facility, converting an existing fossil fuel facility to

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436 renewable energy, or purchasing renewable energy. All projects  
437 are subject to the same bid process as with any other generating  
438 facility. The provider must submit a bid if it seeks to self-  
439 build the project.

440 (b) The utility may recover all reasonable and prudently  
441 incurred costs for building a renewable energy facility,  
442 converting an existing fossil fuel facility to renewable energy,  
443 or purchasing renewable energy in base rates. All determinations  
444 of prudence of costs shall be made, giving consideration to the  
445 provisions and goals of this section and of the state energy  
446 resources plan.

447 (c) All revenues from renewable energy credits or carbon  
448 credits shall be shared with ratepayers in a manner such that  
449 ratepayers receive a minimum of 90 percent of the revenue.

450 (6) A determination by the commission that renewable energy  
451 resources should be added to the generation and production fleet  
452 constitutes a determination of need for those resources and is  
453 the determination of need required under s. 403.519 and the  
454 commission's agency report required under s. 403.507(4)(a).

455 (7) The Florida Energy Office may be a party to all  
456 proceedings under this section, and the Department of  
457 Agriculture and Consumer Services may be a party in any  
458 proceeding relating to biomass plants on issues relating to  
459 proper siting for proximity to foodstocks, forestry management,  
460 or related matters.

461 (8) The commission shall review the state energy resources  
462 plan biennially.

463 Section 5. All of the powers, duties, functions, records,  
464 personnel, and property; unexpended balances of appropriations,



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465 allocations, and other funds; administrative authority;  
 466 administrative rules; pending issues; and existing contracts of  
 467 the Florida Energy and Climate Commission are transferred by a  
 468 type two transfer, pursuant to s. 20.06(2), Florida Statutes, to  
 469 the Florida Energy Office.

470 Section 6. Section 377.6015, Florida Statutes, is amended  
 471 to read:

472 377.6015 Florida Energy Office and Climate Commission.-

473 (1) There is created within the Department of Environmental  
 474 Protection the Florida Energy Office. The office is a separate  
 475 budget entity and is exempt from the provisions of s. 20.052.  
 476 The office is not subject to control, supervision, or direction  
 477 by the Department of Environmental Protection in any manner,  
 478 including purchasing, transactions involving real or personal  
 479 property, personnel, or budgetary matters.

480 (2) The office shall be headed by a director, who is the  
 481 agency head for purposes of final agency action under chapter  
 482 120 for all areas within the authority delegated to the  
 483 director's office. The director shall be appointed by the  
 484 Governor and shall be subject to confirmation by the Senate.

485 (3) The office shall have a sufficient number of  
 486 professional and administrative personnel to carry out its  
 487 responsibilities.

488 ~~(1) The Florida Energy and Climate Commission is created~~  
 489 ~~within the Executive Office of the Governor. The commission~~  
 490 ~~shall be comprised of nine members appointed by the Governor,~~  
 491 ~~the Commissioner of Agriculture, and the Chief Financial~~  
 492 ~~Officer.~~

493 ~~(a) The Governor shall appoint one member from three~~

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494 ~~persons nominated by the Florida Public Service Commission~~  
495 ~~Nominating Council, created in s. 350.031, to each of seven~~  
496 ~~seats on the commission. The Commissioner of Agriculture shall~~  
497 ~~appoint one member from three persons nominated by the council~~  
498 ~~to one seat on the commission. The Chief Financial Officer shall~~  
499 ~~appoint one member from three persons nominated by the council~~  
500 ~~to one seat on the commission.~~

501 ~~1. The council shall submit the recommendations to the~~  
502 ~~Governor, the Commissioner of Agriculture, and the Chief~~  
503 ~~Financial Officer by September 1 of those years in which the~~  
504 ~~terms are to begin the following October or within 60 days after~~  
505 ~~a vacancy occurs for any reason other than the expiration of the~~  
506 ~~term. The Governor, the Commissioner of Agriculture, and the~~  
507 ~~Chief Financial Officer may proffer names of persons to be~~  
508 ~~considered for nomination by the council.~~

509 ~~2. The Governor, the Commissioner of Agriculture, and the~~  
510 ~~Chief Financial Officer shall fill a vacancy occurring on the~~  
511 ~~commission by appointment of one of the applicants nominated by~~  
512 ~~the council only after a background investigation of such~~  
513 ~~applicant has been conducted by the Department of Law~~  
514 ~~Enforcement.~~

515 ~~3. Members shall be appointed to 3-year terms; however, in~~  
516 ~~order to establish staggered terms, for the initial~~  
517 ~~appointments, the Governor shall appoint four members to 3-year~~  
518 ~~terms, two members to 2-year terms, and one member to a 1-year~~  
519 ~~term, and the Commissioner of Agriculture and the Chief~~  
520 ~~Financial Officer shall each appoint one member to a 3-year term~~  
521 ~~and shall appoint a successor when that appointee's term expires~~  
522 ~~in the same manner as the original appointment.~~

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

525 ~~5. A vacancy on the commission shall be filled for the~~  
526 ~~unexpired portion of the term in the same manner as the original~~  
527 ~~appointment.~~

528 ~~6. If the Governor, the Commissioner of Agriculture, or the~~  
529 ~~Chief Financial Officer has not made an appointment within 30~~  
530 ~~consecutive calendar days after the receipt of the~~  
531 ~~recommendations, the council shall initiate, in accordance with~~  
532 ~~this section, the nominating process within 30 days.~~

533 ~~7. Each appointment to the commission shall be subject to~~  
534 ~~confirmation by the Senate during the next regular session after~~  
535 ~~the vacancy occurs. If the Senate refuses to confirm or fails to~~  
536 ~~consider the appointment of the Governor, the Commissioner of~~  
537 ~~Agriculture, or the Chief Financial Officer, the council shall~~  
538 ~~initiate, in accordance with this section, the nominating~~  
539 ~~process within 30 days.~~

540 ~~8. The Governor or the Governor's successor may recall an~~  
541 ~~appointee.~~

542 ~~9. Notwithstanding subparagraph 7. and for the initial~~  
543 ~~appointments to the commission only, each initial appointment to~~  
544 ~~the commission is subject to confirmation by the Senate by the~~  
545 ~~2010 Regular Session. If the Senate refuses to confirm or fails~~  
546 ~~to consider an appointment made by the Governor, the~~  
547 ~~Commissioner of Agriculture, or the Chief Financial Officer, the~~  
548 ~~council shall initiate, in accordance with this section, the~~  
549 ~~nominating process within 30 days after the Senate's refusal to~~  
550 ~~confirm or failure to consider such appointment. This~~  
551 ~~subparagraph expires July 1, 2010.~~

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552 ~~(b) Members must meet the following qualifications and~~  
553 ~~restrictions:~~

554 ~~1. A member must be an expert in one or more of the~~  
555 ~~following fields: energy, natural resource conservation,~~  
556 ~~economics, engineering, finance, law, transportation and land~~  
557 ~~use, consumer protection, state energy policy, or another field~~  
558 ~~substantially related to the duties and functions of the~~  
559 ~~commission. The commission shall fairly represent the fields~~  
560 ~~specified in this subparagraph.~~

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

564 ~~a. Whether he or she has any financial interest, other than~~  
565 ~~ownership of shares in a mutual fund, in any business entity~~  
566 ~~that, directly or indirectly, owns or controls, or is an~~  
567 ~~affiliate or subsidiary of, any business entity that may be~~  
568 ~~affected by the policy recommendations developed by the~~  
569 ~~commission.~~

570 ~~b. Whether he or she is employed by or is engaged in any~~  
571 ~~business activity with any business entity that, directly or~~  
572 ~~indirectly, owns or controls, or is an affiliate or subsidiary~~  
573 ~~of, any business entity that may be affected by the policy~~  
574 ~~recommendations developed by the commission.~~

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

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

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

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581 ~~3. A representative of the Department of Agriculture and~~  
582 ~~Consumer Services.~~

583 ~~4. A representative of the Department of Financial~~  
584 ~~Services.~~

585 ~~5. A representative of the Department of Environmental~~  
586 ~~Protection.~~

587 ~~6. A representative of the Department of Community Affairs.~~

588 ~~7. A representative of the Board of Governors of the State~~  
589 ~~University System.~~

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

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

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

597 (4) The office ~~commission~~ may:

598 (a) Employ staff and counsel as needed in the performance  
599 of its duties.

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

601 ~~(c) Form advisory groups consisting of members of the~~  
602 ~~public to provide information on specific issues.~~

603 (5) The office ~~commission~~ shall:

604 (a) Act as the principal economic development organization  
605 for the state on matters relating to renewable, alternative, or  
606 clean energy.

607 1. The office shall market the state as a probusiness  
608 location for potential new energy-related investment in order to  
609 create new energy-related businesses and to retain and expand

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610 existing energy-related businesses. In doing so, the office  
611 shall work with Enterprise Florida, Inc., Space Florida, and all  
612 other governmental entities at all levels, and with all relevant  
613 private sector entities as necessary to facilitate the location  
614 of a business in this state by assisting those businesses in  
615 such matters as obtaining permits or licenses, determining  
616 appropriate tax laws and rules, and obtaining financing,  
617 incentives, grants, and other funding.

618 2. The office shall work with the Florida Energy Systems  
619 Consortium to coordinate and promote Florida research on energy  
620 and to recruit energy researchers to Florida. As part of this  
621 role, the office shall serve as the clearinghouse for research  
622 information from universities and private sector entities that  
623 receive funding or other assistance from the state relating to  
624 their research projects.

625 (b) ~~(a)~~ Administer the Florida Renewable Energy and Energy-  
626 Efficient Technologies Grants Program pursuant to s. 377.804 to  
627 assure a robust grant portfolio.

628 (c) ~~(b)~~ Develop policy for requiring grantees to provide  
629 royalty-sharing or licensing agreements with state government  
630 for commercialized products developed under a state grant.

631 (d) ~~(e)~~ Administer the Florida Green Government Grants Act  
632 pursuant to s. 377.808 and set annual priorities for grants.

633 (e) ~~(d)~~ Administer the information gathering and reporting  
634 functions pursuant to ss. 377.601-377.608.

635 ~~(e) Administer petroleum planning and emergency contingency~~  
636 ~~planning pursuant to ss. 377.701, 377.703, and 377.704.~~

637 (f) Represent Florida in the Southern States Energy Compact  
638 pursuant to ss. 377.71-377.712.

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639       ~~(g) Complete the annual assessment of the efficacy of~~  
640 ~~Florida's Energy and Climate Change Action Plan, upon completion~~  
641 ~~by the Governor's Action Team on Energy and Climate Change~~  
642 ~~pursuant to the Governor's Executive Order 2007-128, and provide~~  
643 ~~specific recommendations to the Governor and the Legislature~~  
644 ~~each year to improve results.~~

645       (g)~~(h)~~ Administer the provisions of the Florida Energy and  
646 Climate Protection Act pursuant to ss. 377.801-377.806.

647       (h)~~(i)~~ Advocate for energy and climate change issues and  
648 provide educational outreach and technical assistance in  
649 cooperation with the state's academic institutions.

650       ~~(j) Be a party in the proceedings to adopt goals and submit~~  
651 ~~comments to the Public Service Commission pursuant to s. 366.82.~~

652       (i)~~(k)~~ Adopt rules pursuant to chapter 120 in order to  
653 implement all powers and duties described in this section.

654       Section 7. This act shall take effect July 1, 2011.