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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/02/2012	.	
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The Committee on Budget (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (2) of section 186.801, Florida
Statutes, is amended to read:

186.801 Ten-year site plans.—

(2) Within 9 months after the receipt of the proposed plan,
the commission shall make a preliminary study of such plan and
classify it as "suitable" or "unsuitable." The commission may
suggest alternatives to the plan. All findings of the commission
shall be made available to the Department of Environmental
Protection for its consideration at any subsequent electrical



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14 power plant site certification proceedings. It is recognized
15 that 10-year site plans submitted by an electric utility are
16 tentative information for planning purposes only and may be
17 amended at any time at the discretion of the utility upon
18 written notification to the commission. A complete application
19 for certification of an electrical power plant site under
20 chapter 403, when such site is not designated in the current 10-
21 year site plan of the applicant, shall constitute an amendment
22 to the 10-year site plan. In its preliminary study of each 10-
23 year site plan, the commission shall consider such plan as a
24 planning document and shall review:

25 (a) The need, including the need as determined by the
26 commission, for electrical power in the area to be served.

27 (b) The effect on fuel diversity within the state.

28 (c) The anticipated environmental impact of each proposed
29 electrical power plant site.

30 (d) Possible alternatives to the proposed plan.

31 (e) The views of appropriate local, state, and federal
32 agencies, including the views of the appropriate water
33 management district as to the availability of water and its
34 recommendation as to the use by the proposed plant of salt water
35 or fresh water for cooling purposes.

36 (f) The extent to which the plan is consistent with the
37 state comprehensive plan.

38 (g) The plan with respect to the information of the state
39 on energy availability and consumption.

40 (h) The amount of renewable energy resources the provider
41 produces or purchases.

42 (i) The amount of renewable energy resources the provider



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43 plans to produce or purchase over the 10-year planning horizon
44 and the means by which the production or purchases will be
45 achieved.

46 (j) A statement describing how the production and purchase
47 of renewable energy resources impact the provider's present and
48 future capacity and energy needs.

49 Section 2. Paragraph (d) of subsection (2) of section
50 212.055, Florida Statutes, is amended to read:

51 212.055 Discretionary sales surtaxes; legislative intent;
52 authorization and use of proceeds.—It is the legislative intent
53 that any authorization for imposition of a discretionary sales
54 surtax shall be published in the Florida Statutes as a
55 subsection of this section, irrespective of the duration of the
56 levy. Each enactment shall specify the types of counties
57 authorized to levy; the rate or rates which may be imposed; the
58 maximum length of time the surtax may be imposed, if any; the
59 procedure which must be followed to secure voter approval, if
60 required; the purpose for which the proceeds may be expended;
61 and such other requirements as the Legislature may provide.
62 Taxable transactions and administrative procedures shall be as
63 provided in s. 212.054.

64 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

65 (d) The proceeds of the surtax authorized by this
66 subsection and any accrued interest shall be expended by the
67 school district, within the county and municipalities within the
68 county, or, in the case of a negotiated joint county agreement,
69 within another county, to finance, plan, and construct
70 infrastructure; to acquire land for public recreation,
71 conservation, or protection of natural resources; to provide



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72 loans, grants, or rebates to residential property owners who
73 make energy efficiency improvements to their residential
74 property, if a local government ordinance authorizing such use
75 is approved by referendum; or to finance the closure of county-
76 owned or municipally owned solid waste landfills that have been
77 closed or are required to be closed by order of the Department
78 of Environmental Protection. Any use of the proceeds or interest
79 for purposes of landfill closure before July 1, 1993, is
80 ratified. The proceeds and any interest may not be used for the
81 operational expenses of infrastructure, except that a county
82 that has a population of fewer than 75,000 and that is required
83 to close a landfill may use the proceeds or interest for long-
84 term maintenance costs associated with landfill closure.
85 Counties, as defined in s. 125.011, and charter counties may, in
86 addition, use the proceeds or interest to retire or service
87 indebtedness incurred for bonds issued before July 1, 1987, for
88 infrastructure purposes, and for bonds subsequently issued to
89 refund such bonds. Any use of the proceeds or interest for
90 purposes of retiring or servicing indebtedness incurred for
91 refunding bonds before July 1, 1999, is ratified.

92 1. For the purposes of this paragraph, the term
93 "infrastructure" means:

94 a. Any fixed capital expenditure or fixed capital outlay
95 associated with the construction, reconstruction, or improvement
96 of public facilities that have a life expectancy of 5 or more
97 years and any related land acquisition, land improvement,
98 design, and engineering costs.

99 b. A fire department vehicle, an emergency medical service
100 vehicle, a sheriff's office vehicle, a police department



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101 vehicle, or any other vehicle, and the equipment necessary to
102 outfit the vehicle for its official use or equipment that has a
103 life expectancy of at least 5 years.

104 c. Any expenditure for the construction, lease, or
105 maintenance of, or provision of utilities or security for,
106 facilities, as defined in s. 29.008.

107 d. Any fixed capital expenditure or fixed capital outlay
108 associated with the improvement of private facilities that have
109 a life expectancy of 5 or more years and that the owner agrees
110 to make available for use on a temporary basis as needed by a
111 local government as a public emergency shelter or a staging area
112 for emergency response equipment during an emergency officially
113 declared by the state or by the local government under s.
114 252.38. Such improvements are limited to those necessary to
115 comply with current standards for public emergency evacuation
116 shelters. The owner must enter into a written contract with the
117 local government providing the improvement funding to make the
118 private facility available to the public for purposes of
119 emergency shelter at no cost to the local government for a
120 minimum of 10 years after completion of the improvement, with
121 the provision that the obligation will transfer to any
122 subsequent owner until the end of the minimum period.

123 e. Any land acquisition expenditure for a residential
124 housing project in which at least 30 percent of the units are
125 affordable to individuals or families whose total annual
126 household income does not exceed 120 percent of the area median
127 income adjusted for household size, if the land is owned by a
128 local government or by a special district that enters into a
129 written agreement with the local government to provide such



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130 housing. The local government or special district may enter into
131 a ground lease with a public or private person or entity for
132 nominal or other consideration for the construction of the
133 residential housing project on land acquired pursuant to this
134 sub-subparagraph.

135 2. For the purposes of this paragraph, the term "energy
136 efficiency improvement" means any energy conservation and
137 efficiency improvement that reduces consumption through
138 conservation or a more efficient use of electricity, natural
139 gas, propane, or other forms of energy on the property,
140 including, but not limited to, air sealing; installation of
141 insulation; installation of energy-efficient heating, cooling,
142 or ventilation systems; installation of solar panels; building
143 modifications to increase the use of daylight or shade;
144 replacement of windows; installation of energy controls or
145 energy recovery systems; installation of electric vehicle
146 charging equipment; and installation of efficient lighting
147 equipment.

148 ~~3.2.~~ Notwithstanding any other provision of this
149 subsection, a local government infrastructure surtax imposed or
150 extended after July 1, 1998, may allocate up to 15 percent of
151 the surtax proceeds for deposit in a trust fund within the
152 county's accounts created for the purpose of funding economic
153 development projects having a general public purpose of
154 improving local economies, including the funding of operational
155 costs and incentives related to economic development. The ballot
156 statement must indicate the intention to make an allocation
157 under the authority of this subparagraph.

158 Section 3. Paragraph (hhh) is added to subsection (7) of



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159 section 212.08, Florida Statutes, to read:

160 212.08 Sales, rental, use, consumption, distribution, and
161 storage tax; specified exemptions.—The sale at retail, the
162 rental, the use, the consumption, the distribution, and the
163 storage to be used or consumed in this state of the following
164 are hereby specifically exempt from the tax imposed by this
165 chapter.

166 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
167 entity by this chapter do not inure to any transaction that is
168 otherwise taxable under this chapter when payment is made by a
169 representative or employee of the entity by any means,
170 including, but not limited to, cash, check, or credit card, even
171 when that representative or employee is subsequently reimbursed
172 by the entity. In addition, exemptions provided to any entity by
173 this subsection do not inure to any transaction that is
174 otherwise taxable under this chapter unless the entity has
175 obtained a sales tax exemption certificate from the department
176 or the entity obtains or provides other documentation as
177 required by the department. Eligible purchases or leases made
178 with such a certificate must be in strict compliance with this
179 subsection and departmental rules, and any person who makes an
180 exempt purchase with a certificate that is not in strict
181 compliance with this subsection and the rules is liable for and
182 shall pay the tax. The department may adopt rules to administer
183 this subsection.

184 (hhh) Equipment, machinery, and other materials for
185 renewable energy technologies.—

186 1. As used in this paragraph, the term:

187 a. "Biodiesel" means the mono-alkyl esters of long-chain



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188 fatty acids derived from plant or animal matter for use as a
189 source of energy and meeting the specifications for biodiesel
190 and biodiesel blends with petroleum products as adopted by rule
191 of the Department of Agriculture and Consumer Services.

192 "Biodiesel" may refer to biodiesel blends designated BXX, where
193 XX represents the volume percentage of biodiesel fuel in the
194 blend.

195 b. "Ethanol" means an anhydrous denatured alcohol produced
196 by the conversion of carbohydrates meeting the specifications
197 for fuel ethanol and fuel ethanol blends with petroleum products
198 as adopted by rule of the Department of Agriculture and Consumer
199 Services. "Ethanol" may refer to fuel ethanol blends designated
200 EXX, where XX represents the volume percentage of fuel ethanol
201 in the blend.

202 c. "Renewable fuel" means a fuel produced from biomass that
203 is used to replace or reduce the quantity of fossil fuel present
204 in motor fuel or diesel fuel. "Biomass" means biomass as defined
205 in s. 366.91, "motor fuel" means motor fuel as defined in s.
206 206.01, and "diesel fuel" means diesel fuel as defined in s.
207 206.86.

208 2. The sale or use in the state of the following is exempt
209 from the tax imposed by this chapter. Materials used in the
210 distribution of biodiesel (B10-B100), ethanol (E10-E100), and
211 other renewable fuels, including fueling infrastructure,
212 transportation, and storage, up to a limit of \$1 million in tax
213 each state fiscal year for all taxpayers. Gasoline fueling
214 station pump retrofits for biodiesel (B10-B100), ethanol (E10-
215 E100), and other renewable fuel distribution qualify for the
216 exemption provided in this paragraph.



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217 3. The Department of Agriculture and Consumer Services
218 shall provide to the department a list of items eligible for the
219 exemption provided in this paragraph.

220 4.a. The exemption provided in this paragraph shall be
221 available to a purchaser only through a refund of previously
222 paid taxes. An eligible item is subject to refund one time. A
223 person who has received a refund on an eligible item shall
224 notify the next purchaser of the item that the item is no longer
225 eligible for a refund of paid taxes. The notification shall be
226 provided to each subsequent purchaser on the sales invoice or
227 other proof of purchase.

228 b. To be eligible to receive the exemption provided in this
229 paragraph, a purchaser shall file an application with the
230 Department of Agriculture and Consumer Services. The application
231 shall be developed by the Department of Agriculture and Consumer
232 Services, in consultation with the department, and shall
233 require:

234 (I) The name and address of the person claiming the refund.

235 (II) A specific description of the purchase for which a
236 refund is sought, including, when applicable, a serial number or
237 other permanent identification number.

238 (III) The sales invoice or other proof of purchase showing
239 the amount of sales tax paid, the date of purchase, and the name
240 and address of the sales tax dealer from whom the property was
241 purchased.

242 (IV) A sworn statement that the information provided is
243 accurate and that the requirements of this paragraph have been
244 met.

245 c. Within 30 days after receipt of an application, the



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246 Department of Agriculture and Consumer Services shall review the
247 application and notify the applicant of any deficiencies. Upon
248 receipt of a completed application, the Department of
249 Agriculture and Consumer Services shall evaluate the application
250 for the exemption and issue a written certification that the
251 applicant is eligible for a refund or issue a written denial of
252 such certification. The Department of Agriculture and Consumer
253 Services shall provide the department a copy of each
254 certification issued upon approval of an application.

255 d. Each certified applicant is responsible for applying for
256 the refund and forwarding the certification that the applicant
257 is eligible to the department within 6 months after
258 certification by the Department of Agriculture and Consumer
259 Services.

260 e. A refund approved pursuant to this paragraph shall be
261 made within 30 days after formal approval by the department.

262 f. The Department of Agriculture and Consumer Services may
263 adopt by rule the form for the application for a certificate,
264 requirements for the content and format of information submitted
265 to the Department of Agriculture and Consumer Services in
266 support of the application, other procedural requirements, and
267 criteria by which the application will be determined. The
268 Department of Agriculture and Consumer Services may adopt other
269 rules pursuant to ss. 120.536(1) and 120.54 to administer this
270 paragraph, including rules establishing additional forms and
271 procedures for claiming the exemption.

272 g. The Department of Agriculture and Consumer Services
273 shall be responsible for ensuring that the total amount of the
274 exemptions authorized do not exceed the limits specified in



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275 subparagraph 2.

276 5. Approval of the exemptions under this paragraph is on a
277 first-come, first-served basis, based upon the date complete
278 applications are received by the Department of Agriculture and
279 Consumer Services. Incomplete placeholder applications shall not
280 be accepted and shall not secure a place in the first-come,
281 first-served application line. The Department of Agriculture and
282 Consumer Services shall determine and publish on its website on
283 a regular basis the amount of sales tax funds remaining in each
284 fiscal year.

285 6. This paragraph expires July 1, 2016.

286 Section 4. Subsections (1), (2), (4), (6), (7), and (8) of
287 section 220.192, Florida Statutes, are amended to read:

288 220.192 Renewable energy technologies investment tax
289 credit.—

290 (1) DEFINITIONS.—For purposes of this section, the term:

291 (a) "Biodiesel" means biodiesel as defined in s.

292 212.08(7)(hhh) former s. 212.08(7)(ccc).

293 (b) "Corporation" includes a general partnership, limited
294 partnership, limited liability company, unincorporated business,
295 or other business entity, including entities taxed as
296 partnerships for federal income tax purposes.

297 (c) "Eligible costs" means÷

298 ~~1. Seventy-five percent of all capital costs, operation and~~
299 ~~maintenance costs, and research and development costs incurred~~
300 ~~between July 1, 2006, and June 30, 2010, up to a limit of \$3~~
301 ~~million per state fiscal year for all taxpayers, in connection~~
302 ~~with an investment in hydrogen-powered vehicles and hydrogen~~
303 ~~vehicle fueling stations in the state, including, but not~~



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304 ~~limited to, the costs of constructing, installing, and equipping~~
305 ~~such technologies in the state.~~

306 ~~2. Seventy five percent of all capital costs, operation and~~
307 ~~maintenance costs, and research and development costs incurred~~
308 ~~between July 1, 2006, and June 30, 2010, up to a limit of \$1.5~~
309 ~~million per state fiscal year for all taxpayers, and limited to~~
310 ~~a maximum of \$12,000 per fuel cell, in connection with an~~
311 ~~investment in commercial stationary hydrogen fuel cells in the~~
312 ~~state, including, but not limited to, the costs of constructing,~~
313 ~~installing, and equipping such technologies in the state.~~

314 ~~3. Seventy-five percent of all capital costs, operation and~~
315 ~~maintenance costs, and research and development costs incurred~~
316 ~~between July 1, 2012 ~~2006~~, and June 30, 2016 ~~2010~~, not to exceed~~
317 ~~\$1 million per state fiscal year for each taxpayer and up to a~~
318 ~~limit of \$10 ~~\$6.5~~ million per state fiscal year for all~~
319 ~~taxpayers, in connection with an investment in the production,~~
320 ~~storage, and distribution of biodiesel (B10-B100), and ethanol~~
321 ~~(E10-E100), and other renewable fuel in the state, including the~~
322 ~~costs of constructing, installing, and equipping such~~
323 ~~technologies in the state. Gasoline fueling station pump~~
324 ~~retrofits for biodiesel (B10-B100), ethanol (E10-E100), and~~
325 ~~other renewable fuel distribution qualify as an eligible cost~~
326 ~~under this section ~~subparagraph~~.~~

327 (d) "Ethanol" means ethanol as defined in s. 212.08(7)(hhh)
328 ~~former s. 212.08(7)(ccc).~~

329 (e) "Renewable fuel" means a fuel produced from biomass
330 that is used to replace or reduce the quantity of fossil fuel
331 present in motor fuel or diesel fuel. "Biomass" means biomass as
332 defined in s. 366.91, "motor fuel" means motor fuel as defined



333 in s. 206.01, and "diesel fuel" means diesel fuel as defined in
334 s. 206.86.

335 ~~(c) "Hydrogen fuel cell" means hydrogen fuel cell as~~
336 ~~defined in former s. 212.08(7)(ccc).~~

337 (f) "Taxpayer" includes a corporation as defined in
338 paragraph (b) or s. 220.03.

339 (2) TAX CREDIT.—For tax years beginning on or after January
340 1, 2013 ~~2007~~, a credit against the tax imposed by this chapter
341 shall be granted in an amount equal to the eligible costs.
342 Credits may be used in tax years beginning January 1, 2013 ~~2007~~,
343 and ending December 31, 2016 ~~2010~~, after which the credit shall
344 expire. If the credit is not fully used in any one tax year
345 because of insufficient tax liability on the part of the
346 corporation, the unused amount may be carried forward and used
347 in tax years beginning January 1, 2013 ~~2007~~, and ending December
348 31, 2018 ~~2012~~, after which the credit carryover expires and may
349 not be used. A taxpayer that files a consolidated return in this
350 state as a member of an affiliated group under s. 220.131(1) may
351 be allowed the credit on a consolidated return basis up to the
352 amount of tax imposed upon the consolidated group. Any eligible
353 cost for which a credit is claimed and which is deducted or
354 otherwise reduces federal taxable income shall be added back in
355 computing adjusted federal income under s. 220.13.

356 (4) TAXPAYER APPLICATION PROCESS.—To claim a credit under
357 this section, each taxpayer must apply to the Department of
358 Agriculture and Consumer Services for an allocation of each type
359 of annual credit by the date established by the Department of
360 Agriculture and Consumer Services. The application form adopted
361 by rule of the Department of Agriculture and Consumer Services



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362 must include an affidavit from each taxpayer certifying that all
363 information contained in the application, including all records
364 of eligible costs claimed as the basis for the tax credit, are
365 true and correct. Approval of the credits under this section is
366 on a first-come, first-served basis, based upon the date
367 complete applications are received by the Department of
368 Agriculture and Consumer Services. A taxpayer must submit only
369 one complete application based upon eligible costs incurred
370 within a particular state fiscal year. Incomplete placeholder
371 applications will not be accepted and will not secure a place in
372 the first-come, first-served application line. If a taxpayer
373 does not receive a tax credit allocation due to the exhaustion
374 of the annual tax credit authorizations, then such taxpayer may
375 reapply in the following year for those eligible costs and will
376 have priority over other applicants for the allocation of
377 credits.

378 (6) TRANSFERABILITY OF CREDIT.—

379 (a) For tax years beginning on or after January 1, 2014
380 ~~2009~~, any corporation or subsequent transferee allowed a tax
381 credit under this section may transfer the credit, in whole or
382 in part, to any taxpayer by written agreement without
383 transferring any ownership interest in the property generating
384 the credit or any interest in the entity owning such property.
385 The transferee is entitled to apply the credits against the tax
386 with the same effect as if the transferee had incurred the
387 eligible costs.

388 (b) To perfect the transfer, the transferor shall provide
389 the Department of Revenue with a written transfer statement
390 notifying the Department of Revenue of the transferor's intent



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391 to transfer the tax credits to the transferee; the date the
392 transfer is effective; the transferee's name, address, and
393 federal taxpayer identification number; the tax period; and the
394 amount of tax credits to be transferred. The Department of
395 Revenue shall, upon receipt of a transfer statement conforming
396 to the requirements of this section, provide the transferee with
397 a certificate reflecting the tax credit amounts transferred. A
398 copy of the certificate must be attached to each tax return for
399 which the transferee seeks to apply such tax credits.

400 (c) A tax credit authorized under this section that is held
401 by a corporation and not transferred under this subsection shall
402 be passed through to the taxpayers designated as partners,
403 members, or owners, respectively, in the manner agreed to by
404 such persons regardless of whether such partners, members, or
405 owners are allocated or allowed any portion of the federal
406 energy tax credit for the eligible costs. A corporation that
407 passes the credit through to a partner, member, or owner must
408 comply with the notification requirements described in paragraph
409 (b). The partner, member, or owner must attach a copy of the
410 certificate to each tax return on which the partner, member, or
411 owner claims any portion of the credit.

412 (7) RULES.—The Department of Revenue and the Department of
413 Agriculture and Consumer Services shall have the authority to
414 adopt rules pursuant to ss. 120.536(1) and 120.54 to administer
415 this section, including rules relating to:

416 (a) The forms required to claim a tax credit under this
417 section, the requirements and basis for establishing an
418 entitlement to a credit, and the examination and audit
419 procedures required to administer this section.



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420 (b) The implementation and administration of the provisions
421 allowing a transfer of a tax credit, including rules prescribing
422 forms, reporting requirements, and specific procedures,
423 guidelines, and requirements necessary to transfer a tax credit.

424 (8) PUBLICATION.—The Department of Agriculture and Consumer
425 Services shall determine and publish on its website on a regular
426 basis the amount of available tax credits remaining in each
427 fiscal year.

428 Section 5. Section 220.193, Florida Statutes, is amended to
429 read:

430 220.193 Florida renewable energy production credit.—

431 (1) The purpose of this section is to encourage the
432 development and expansion of facilities that produce renewable
433 energy in Florida.

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

435 (a) "Commission" means ~~shall mean~~ the Public Service
436 Commission.

437 (b) "Department" means ~~shall mean~~ the Department of
438 Revenue.

439 (c) "Expanded facility" means ~~shall mean~~ a Florida
440 renewable energy facility that increases its electrical
441 production and sale by more than 5 percent above the facility's
442 electrical production and sale during the 2011 ~~2005~~ calendar
443 year.

444 (d) "Florida renewable energy facility" means ~~shall mean~~ a
445 facility in the state that produces electricity for sale from
446 renewable energy, as defined in s. 377.803.

447 (e) "New facility" means ~~shall mean~~ a Florida renewable
448 energy facility that is operationally placed in service after



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449 May 1, 2006. "New facility" includes a Florida renewable energy
450 facility that has had an expansion operationally placed in
451 service after May 1, 2006, and whose cost exceeded 50 percent of
452 the assessed value of the facility immediately before the
453 expansion.

454 (f) "Sale" or "sold" includes the use of electricity by the
455 producer of such electricity which decreases the amount of
456 electricity that the producer would otherwise have to purchase.

457 (g) "Taxpayer" includes a general partnership, limited
458 partnership, limited liability company, trust, or other
459 artificial entity in which a corporation, as defined in s.
460 220.03(1)(e), owns an interest and is taxed as a partnership or
461 is disregarded as a separate entity from the corporation under
462 this chapter.

463 (3) An annual credit against the tax imposed by this
464 section shall be allowed to a taxpayer, based on the taxpayer's
465 production and sale of electricity from a new or expanded
466 Florida renewable energy facility. For a new facility, the
467 credit shall be based on the taxpayer's sale of the facility's
468 entire electrical production. For an expanded facility, the
469 credit shall be based on the increases in the facility's
470 electrical production that are achieved after May 1, 2012 ~~2006~~.

471 (a) The credit shall be \$0.01 for each kilowatt-hour of
472 electricity produced and sold by the taxpayer to an unrelated
473 party during a given tax year.

474 (b) The credit may be claimed for electricity produced and
475 sold on or after January 1, 2013 ~~2007~~. Beginning in 2014 ~~2008~~
476 and continuing until 2017 ~~2011~~, each taxpayer claiming a credit
477 under this section must first apply to the department by



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478 February 1 of each year for an allocation of available credit.
479 The department, in consultation with the commission, shall
480 develop an application form. The application form shall, at a
481 minimum, require a sworn affidavit from each taxpayer certifying
482 the increase in production and sales that form the basis of the
483 application and certifying that all information contained in the
484 application is true and correct.

485 (c) If the amount of credits applied for each year exceeds
486 \$5 million, the department shall award credits to qualified
487 applicants based on the following priority: ~~to each applicant a~~
488 ~~prorated amount based on each applicant's increased production~~
489 ~~and sales and the increased production and sales of all~~
490 ~~applicants.~~

491 1. An applicant who places a new facility in operation
492 after May 1, 2012, shall be granted credits first, up to a
493 maximum of \$250,000 each, with remaining credits to be granted
494 pursuant to subparagraph 3., but if there are insufficient funds
495 authorized to grant all such credits, the credits granted under
496 this subparagraph shall be prorated based upon each applicant's
497 qualified production and sales as a percentage of total
498 qualified production and sales of all applicants in this
499 category for the year.

500 2. An applicant who does not qualify under subparagraph 1.
501 but who claims a credit of \$50,000 or less shall be granted
502 credits next, and if there are insufficient funds authorized to
503 grant all such credits, the credits shall be prorated based upon
504 each applicant's qualified production and sales as a percentage
505 of total qualified production and sales of all applicants in
506 this category for the year.



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507 3. An applicant who does not qualify under subparagraph 1.
508 or subparagraph 2. and an applicant whose credits have not been
509 fully awarded under subparagraph 1. shall be awarded credits
510 from remaining authorized funds, and if there are insufficient
511 authorized funds to grant all such remaining credits, the
512 credits shall be prorated based upon each applicant's remaining
513 claims for qualified production and sales as a percentage of
514 total remaining claims for qualified production and sales of all
515 applicants in this category for the year.

516 (d) If the credit granted pursuant to this section is not
517 fully used in one year because of insufficient tax liability on
518 the part of the taxpayer, the unused amount may be carried
519 forward for a period not to exceed 5 years. The carryover credit
520 may be used in a subsequent year when the tax imposed by this
521 chapter for such year exceeds the credit for such year, after
522 applying the other credits and unused credit carryovers in the
523 order provided in s. 220.02(8).

524 (e) A taxpayer that files a consolidated return in this
525 state as a member of an affiliated group under s. 220.131(1) may
526 be allowed the credit on a consolidated return basis up to the
527 amount of tax imposed upon the consolidated group.

528 (f)1. Tax credits that may be available under this section
529 to an entity eligible under this section may be transferred
530 after a merger or acquisition to the surviving or acquiring
531 entity and used in the same manner with the same limitations.

532 2. The entity or its surviving or acquiring entity as
533 described in subparagraph 1. may transfer any unused credit in
534 whole or in units of no less than 25 percent of the remaining
535 credit. The entity acquiring such credit may use it in the same



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536 manner and with the same limitations under this section. Such
537 transferred credits may not be transferred again although they
538 may succeed to a surviving or acquiring entity subject to the
539 same conditions and limitations as described in this section.

540 3. In the event the credit provided for under this section
541 is reduced as a result of an examination or audit by the
542 department, such tax deficiency shall be recovered from the
543 first entity or the surviving or acquiring entity to have
544 claimed such credit up to the amount of credit taken. Any
545 subsequent deficiencies shall be assessed against any entity
546 acquiring and claiming such credit, or in the case of multiple
547 succeeding entities in the order of credit succession.

548 (g) Notwithstanding any other provision of this section,
549 credits for the production and sale of electricity from a new or
550 expanded Florida renewable energy facility may be earned between
551 January 1, 2013 ~~2007~~, and June 30, 2016 ~~2010~~. The amount of tax
552 credits that may be granted to each taxpayer under this section
553 is limited to \$1 million per state fiscal year. The combined
554 total amount of tax credits which may be granted for all
555 taxpayers under this section is limited to \$5 million per state
556 fiscal year.

557 (h) A taxpayer claiming a credit under this section shall
558 be required to add back to net income that portion of its
559 business deductions claimed on its federal return paid or
560 incurred for the taxable year which is equal to the amount of
561 the credit allowable for the taxable year under this section.

562 (i) A taxpayer claiming credit under this section may not
563 claim a credit under s. 220.192. A taxpayer claiming credit
564 under s. 220.192 may not claim a credit under this section.



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565 (j) When an entity treated as a partnership or a
566 disregarded entity under this chapter produces and sells
567 electricity from a new or expanded renewable energy facility,
568 the credit earned by such entity shall pass through in the same
569 manner as items of income and expense pass through for federal
570 income tax purposes. When an entity applies for the credit and
571 the entity has received the credit by a pass-through, the
572 application must identify the taxpayer that passed the credit
573 through, all taxpayers that received the credit, and the
574 percentage of the credit that passes through to each recipient
575 and must provide other information that the department requires.

576 (k) A taxpayer's use of the credit granted pursuant to this
577 section does not reduce the amount of any credit available to
578 such taxpayer under s. 220.186.

579 (4) The department may adopt rules to implement and
580 administer this section, including rules prescribing forms, the
581 documentation needed to substantiate a claim for the tax credit,
582 and the specific procedures and guidelines for claiming the
583 credit.

584 (5) This section shall take effect upon becoming law and
585 shall apply to tax years beginning on and after January 1, 2013
586 2007.

587 Section 6. Subsection (3) of section 255.257, Florida
588 Statutes, is amended to read:

589 255.257 Energy management; buildings occupied by state
590 agencies.—

591 (3) CONTENTS OF THE STATE ENERGY MANAGEMENT PLAN.—The
592 Department of Management Services, in coordination with the
593 Department of Agriculture and Consumer Services, shall further



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594 develop the a state energy management plan consisting of, but
595 not limited to, the following elements:

- 596 (a) Data-gathering requirements;
- 597 (b) Building energy audit procedures;
- 598 (c) Uniform data analysis and reporting procedures;
- 599 (d) Employee energy education program measures;
- 600 (e) Energy consumption reduction techniques;
- 601 (f) Training program for state agency energy management
602 coordinators; and
- 603 (g) Guidelines for building managers.

604
605 The plan shall include a description of actions that state
606 agencies shall take to reduce consumption of electricity and
607 nonrenewable energy sources used for space heating and cooling,
608 ventilation, lighting, water heating, and transportation.

609 Section 7. Paragraph (q) of subsection (2) of section
610 288.106, Florida Statutes, is amended to read:

611 288.106 Tax refund program for qualified target industry
612 businesses.—

613 (2) DEFINITIONS.—As used in this section:

614 (q) "Target industry business" means a corporate
615 headquarters business or any business that is engaged in one of
616 the target industries identified pursuant to the following
617 criteria developed by the department in consultation with
618 Enterprise Florida, Inc.:

619 1. Future growth.—Industry forecasts should indicate strong
620 expectation for future growth in both employment and output,
621 according to the most recent available data. Special
622 consideration should be given to businesses that export goods



623 to, or provide services in, international markets and businesses
624 that replace domestic and international imports of goods or
625 services.

626 2. Stability.—The industry should not be subject to
627 periodic layoffs, whether due to seasonality or sensitivity to
628 volatile economic variables such as weather. The industry should
629 also be relatively resistant to recession, so that the demand
630 for products of this industry is not typically subject to
631 decline during an economic downturn.

632 3. High wage.—The industry should pay relatively high wages
633 compared to statewide or area averages.

634 4. Market and resource independent.—The location of
635 industry businesses should not be dependent on Florida markets
636 or resources as indicated by industry analysis, except for
637 businesses in the renewable energy industry.

638 5. Industrial base diversification and strengthening.—The
639 industry should contribute toward expanding or diversifying the
640 state's or area's economic base, as indicated by analysis of
641 employment and output shares compared to national and regional
642 trends. Special consideration should be given to industries that
643 strengthen regional economies by adding value to basic products
644 or building regional industrial clusters as indicated by
645 industry analysis. Special consideration should also be given to
646 the development of strong industrial clusters that include
647 defense and homeland security businesses.

648 6. Positive economic impact.—The industry is expected to
649 have strong positive economic impacts on or benefits to the
650 state or regional economies. Special consideration should be
651 given to industries that facilitate the development of the state



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652 as a hub for domestic and global trade and logistics.

653

654 The term does not include any business engaged in retail
655 industry activities; any electrical utility company as defined
656 in s. 366.02(2); any phosphate or other solid minerals
657 severance, mining, or processing operation; any oil or gas
658 exploration or production operation; or any business subject to
659 regulation by the Division of Hotels and Restaurants of the
660 Department of Business and Professional Regulation. Any business
661 within NAICS code 5611 or 5614, office administrative services
662 and business support services, respectively, may be considered a
663 target industry business only after the local governing body and
664 Enterprise Florida, Inc., make a determination that the
665 community where the business may locate has conditions affecting
666 the fiscal and economic viability of the local community or
667 area, including but not limited to, factors such as low per
668 capita income, high unemployment, high underemployment, and a
669 lack of year-round stable employment opportunities, and such
670 conditions may be improved by the location of such a business to
671 the community. By January 1 of every 3rd year, beginning January
672 1, 2011, the department, in consultation with Enterprise
673 Florida, Inc., economic development organizations, the State
674 University System, local governments, employee and employer
675 organizations, market analysts, and economists, shall review
676 and, as appropriate, revise the list of such target industries
677 and submit the list to the Governor, the President of the
678 Senate, and the Speaker of the House of Representatives.

679 Section 8. Section 366.92, Florida Statutes, is amended to
680 read:



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681 366.92 Florida renewable energy policy.—

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

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

692 ~~(a) "Florida renewable energy resources" means renewable~~
693 ~~energy, as defined in s. 377.803, that is produced in Florida.~~

694 ~~(a)(b) "Provider" means a "utility" as defined in s.~~
695 ~~366.8255(1) (a) .~~

696 ~~(b)(e) "Renewable energy" means renewable energy as defined~~
697 ~~in s. 366.91(2) (d) .~~

698 ~~(d) "Renewable energy credit" or "REC" means a product that~~
699 ~~represents the unbundled, separable, renewable attribute of~~
700 ~~renewable energy produced in Florida and is equivalent to 1~~
701 ~~megawatt-hour of electricity generated by a source of renewable~~
702 ~~energy located in Florida.~~

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

707 ~~(3) The commission shall adopt rules for a renewable~~
708 ~~portfolio standard requiring each provider to supply renewable~~
709 ~~energy to its customers directly, by procuring, or through~~



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710 ~~renewable energy credits. In developing the RPS rule, the~~
711 ~~commission shall consult the Department of Environmental~~
712 ~~Protection and the Department of Agriculture and Consumer~~
713 ~~Services. The rule shall not be implemented until ratified by~~
714 ~~the Legislature. The commission shall present a draft rule for~~
715 ~~legislative consideration by February 1, 2009.~~

716 ~~(a) In developing the rule, the commission shall evaluate~~
717 ~~the current and forecasted levelized cost in cents per kilowatt~~
718 ~~hour through 2020 and current and forecasted installed capacity~~
719 ~~in kilowatts for each renewable energy generation method through~~
720 ~~2020.~~

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

722 ~~1. Shall include methods of managing the cost of compliance~~
723 ~~with the renewable portfolio standard, whether through direct~~
724 ~~supply or procurement of renewable power or through the purchase~~
725 ~~of renewable energy credits. The commission shall have~~
726 ~~rulemaking authority for providing annual cost recovery and~~
727 ~~incentive-based adjustments to authorized rates of return on~~
728 ~~common equity to providers to incentivize renewable energy.~~

729 ~~Notwithstanding s. 366.91(3) and (4), upon the ratification of~~
730 ~~the rules developed pursuant to this subsection, the commission~~
731 ~~may approve projects and power sales agreements with renewable~~
732 ~~power producers and the sale of renewable energy credits needed~~
733 ~~to comply with the renewable portfolio standard. In the event of~~
734 ~~any conflict, this subparagraph shall supersede s. 366.91(3) and~~
735 ~~(4). However, nothing in this section shall alter the obligation~~
736 ~~of each public utility to continuously offer a purchase contract~~
737 ~~to producers of renewable energy.~~

738 ~~2. Shall provide for appropriate compliance measures and~~



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739 ~~the conditions under which noncompliance shall be excused due to~~
740 ~~a determination by the commission that the supply of renewable~~
741 ~~energy or renewable energy credits was not adequate to satisfy~~
742 ~~the demand for such energy or that the cost of securing~~
743 ~~renewable energy or renewable energy credits was cost~~
744 ~~prohibitive.~~

745 ~~3. May provide added weight to energy provided by wind and~~
746 ~~solar photovoltaic over other forms of renewable energy, whether~~
747 ~~directly supplied or procured or indirectly obtained through the~~
748 ~~purchase of renewable energy credits.~~

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

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

754 ~~6. Shall ensure that energy credited toward compliance with~~
755 ~~the requirements of this section is not credited toward any~~
756 ~~other purpose.~~

757 ~~7. Shall include procedures to track and account for~~
758 ~~renewable energy credits, including ownership of renewable~~
759 ~~energy credits that are derived from a customer-owned renewable~~
760 ~~energy facility as a result of any action by a customer of an~~
761 ~~electric power supplier that is independent of a program~~
762 ~~sponsored by the electric power supplier.~~

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

766 ~~(c) Beginning on April 1 of the year following final~~
767 ~~adoption of the commission's renewable portfolio standard rule,~~



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768 ~~each provider shall submit a report to the commission describing~~
769 ~~the steps that have been taken in the previous year and the~~
770 ~~steps that will be taken in the future to add renewable energy~~
771 ~~to the provider's energy supply portfolio. The report shall~~
772 ~~state whether the provider was in compliance with the renewable~~
773 ~~portfolio standard during the previous year and how it will~~
774 ~~comply with the renewable portfolio standard in the upcoming~~
775 ~~year.~~

776 (3)~~(4)~~ In order to demonstrate the feasibility and
777 viability of clean energy systems, the commission shall provide
778 for full cost recovery under the environmental cost-recovery
779 clause of all reasonable and prudent costs incurred by a
780 provider for renewable energy projects that are zero greenhouse
781 gas emitting at the point of generation, up to a total of 110
782 megawatts statewide, and for which the provider has secured
783 necessary land, zoning permits, and transmission rights within
784 the state. Such costs shall be deemed reasonable and prudent for
785 purposes of cost recovery so long as the provider has used
786 reasonable and customary industry practices in the design,
787 procurement, and construction of the project in a cost-effective
788 manner appropriate to the location of the facility. The provider
789 shall report to the commission as part of the cost-recovery
790 proceedings the construction costs, in-service costs, operating
791 and maintenance costs, hourly energy production of the renewable
792 energy project, and any other information deemed relevant by the
793 commission. Any provider constructing a clean energy facility
794 pursuant to this section shall file for cost recovery no later
795 than July 1, 2009.

796 (4)~~(5)~~ Each municipal electric utility and rural electric



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

803 (5)~~(6)~~ Nothing in this section shall be construed to impede
804 or impair terms and conditions of existing contracts.

805 (6)~~(7)~~ The commission may adopt rules to administer and
806 implement the provisions of this section.

807 Section 9. Section 366.94, Florida Statutes, is created to
808 read:

809 366.94 Electric vehicle charging stations.-

810 (1) The provision of electric vehicle charging to the
811 public by a nonutility is not the retail sale of electricity for
812 the purposes of this chapter. The rates, terms, and conditions
813 of electric vehicle charging services by a nonutility are not
814 subject to regulation under this chapter. This section does not
815 affect the ability of individuals, businesses, or governmental
816 entities to acquire, install, or use an electric vehicle charger
817 for their own vehicles.

818 (2) The Department of Agriculture and Consumer Services
819 shall adopt rules to provide definitions, methods of sale,
820 labeling requirements, and price-posting requirements for
821 electric vehicle charging stations to allow for consistency for
822 consumers and the industry.

823 (3) (a) It is unlawful for a person to stop, stand, or park
824 a vehicle that is not capable of using an electrical recharging
825 station within any parking space specifically designated for



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826 charging an electric vehicle.

827 (b) If a law enforcement officer finds a motor vehicle in
828 violation of this subsection, the officer or specialist shall
829 charge the operator or other person in charge of the vehicle in
830 violation with a noncriminal traffic infraction, punishable as
831 provided in s. 316.008(4) or s. 318.18.

832 (4) The Public Service Commission is directed to conduct a
833 study of the potential effects of public charging stations and
834 privately owned electric vehicle charging on both energy
835 consumption and the impact on the electric grid in the state.
836 The Public Service Commission shall also investigate the
837 feasibility of using off-grid solar photovoltaic power as a
838 source of electricity for the electric vehicle charging
839 stations. The commission shall submit the results of the study
840 to the President of the Senate, the Speaker of the House of
841 Representatives, and the Executive Office of the Governor by
842 December 31, 2012.

843 Section 10. Subsection (1) of section 526.203, Florida
844 Statutes, is amended, and subsections (5) and (6) are added to
845 that section, to read:

846 526.203 Renewable fuel standard.—

847 (1) DEFINITIONS.—As used in this act:

848 (a) "Alternative fuel" means a fuel produced from biomass,
849 as defined in s. 366.91, that is used to replace or reduce the
850 quantity of fossil fuel present in a petroleum fuel that meets
851 the specifications as adopted by the department.

852 (b) ~~(a)~~ "Blender," "importer," "terminal supplier," and
853 "wholesaler" are defined as provided in s. 206.01.

854 (c) ~~(b)~~ "Blended gasoline" means a mixture of 90 to 91



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855 percent gasoline and 9 to 10 percent fuel ethanol or other
856 alternative fuel, by volume, that meets the specifications as
857 adopted by the department. The fuel ethanol or other alternative
858 fuel portion may be derived from any agricultural source.

859 (d)~~(e)~~ "Fuel ethanol" means an anhydrous denatured alcohol
860 produced by the conversion of carbohydrates that meets the
861 specifications as adopted by the department.

862 (e)~~(d)~~ "Unblended gasoline" means gasoline that has not
863 been blended with fuel ethanol or other alternative fuel and
864 that meets the specifications as adopted by the department.

865 (5) This section does not prohibit a retail dealer as
866 defined in s. 206.01 from selling or offering to sell unblended
867 gasoline.

868 (6) The Department of Agriculture and Consumer Services
869 shall compile a list of retail fuel stations that sell or offer
870 to sell unblended gasoline. This information shall be compiled
871 by the department as part of its routine retail fuel station
872 inspections, authorized under s. 525.07, and from information
873 provided voluntarily by retail dealers. The Department of
874 Agriculture and Consumer Services shall provide this information
875 on its website to inform consumers of the options available for
876 unblended gasoline.

877 Section 11. Subsection (4) of section 581.083, Florida
878 Statutes, is amended to read:

879 581.083 Introduction or release of plant pests, noxious
880 weeds, or organisms affecting plant life; cultivation of
881 nonnative plants; special permit and security required.—

882 (4) A person may not cultivate a nonnative plant, algae, or
883 blue-green algae, including a genetically engineered plant,



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884 ~~algae, or blue-green algae or a plant that has been introduced,~~
885 ~~for purposes of fuel production or purposes other than~~
886 ~~agriculture in plantings greater in size than 2 contiguous~~
887 ~~acres, except under a special permit issued by the department~~
888 ~~through the division, which is the sole agency responsible for~~
889 ~~issuing such special permits. A permit is not required to~~
890 ~~cultivate any plant or group of plants that, based on experience~~
891 ~~or research data, does not pose a threat of becoming an invasive~~
892 ~~species and is commonly grown in this state for the purpose of~~
893 ~~human food consumption, commercial feed, feedstuff, forage for~~
894 ~~livestock, nursery stock, or silviculture. The department is~~
895 ~~authorized to adopt additional exemptions to the permitting~~
896 ~~requirements of this section if the department determines, after~~
897 ~~consulting with the Institute of Food and Agricultural Sciences~~
898 ~~at the University of Florida, that based on experience or~~
899 ~~research data, the nonnative plant, algae, or blue-green algae~~
900 ~~does not pose a threat of becoming an invasive species or a pest~~
901 ~~of plants or native fauna under conditions in this state and~~
902 ~~subsequently exempts the plant or group of plants by rule ~~Such a~~~~
903 ~~~~permit shall not be required if the department determines, in~~~~
904 ~~~~conjunction with the Institute of Food and Agricultural Sciences~~~~
905 ~~~~at the University of Florida, that the plant is not invasive and~~~~
906 ~~~~subsequently exempts the plant by rule.~~~~

907 (a)1. Each application for a special permit must be
908 accompanied by a fee as described in subsection (2) and proof
909 that the applicant has obtained, on a form approved by the
910 department, ~~a bond in the form approved by the department and~~
911 ~~issued by a surety company admitted to do business in this state~~
912 ~~or a certificate of deposit, or other type of security adopted~~



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913 by rule of the department which provides a financial assurance
914 of cost recovery for the removal of a planting. The application
915 must include, on a form provided by the department, the name of
916 the applicant and the applicant's address or the address of the
917 applicant's principal place of business; a statement completely
918 identifying the nonnative plant to be cultivated; and a
919 statement of the estimated cost of removing and destroying the
920 plant that is the subject of the special permit and the basis
921 for calculating or determining that estimate. If the applicant
922 is a corporation, partnership, or other business entity, the
923 applicant must also provide in the application the name and
924 address of each officer, partner, or managing agent. The
925 applicant shall notify the department within 10 business days of
926 any change of address or change in the principal place of
927 business. The department shall mail all notices to the
928 applicant's last known address.

929 2. As used in this subsection, the term "certificate of
930 deposit" means a certificate of deposit at any recognized
931 financial institution doing business in the United States. The
932 department may not accept a certificate of deposit in connection
933 with the issuance of a special permit unless the issuing
934 institution is properly insured by the Federal Deposit Insurance
935 Corporation or the Federal Savings and Loan Insurance
936 Corporation.

937 (b) Upon obtaining a permit, the permitholder may annually
938 cultivate and maintain the nonnative plants as authorized by the
939 special permit. If the permitholder ceases to maintain or
940 cultivate the plants authorized by the special permit, if the
941 permit expires, or if the permitholder ceases to abide by the



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942 conditions of the special permit, the permit holder shall
943 immediately remove and destroy the plants that are subject to
944 the permit, if any remain. The permit holder shall notify the
945 department of the removal and destruction of the plants within
946 10 days after such event.

947 (c) If the department:

948 1. Determines that the permit holder is no longer
949 maintaining or cultivating the plants subject to the special
950 permit and has not removed and destroyed the plants authorized
951 by the special permit;

952 2. Determines that the continued maintenance or cultivation
953 of the plants presents an imminent danger to public health,
954 safety, or welfare;

955 3. Determines that the permit holder has exceeded the
956 conditions of the authorized special permit; or

957 4. Receives a notice of cancellation of the surety bond,
958

959 the department may issue an immediate final order, which shall
960 be immediately appealable or enjoicable as provided by chapter
961 120, directing the permit holder to immediately remove and
962 destroy the plants authorized to be cultivated under the special
963 permit. A copy of the immediate final order must ~~shall~~ be mailed
964 to the permit holder and to the surety company or financial
965 institution that has provided security for the special permit,
966 if applicable.

967 (d) If, upon issuance by the department of an immediate
968 final order to the permit holder, the permit holder fails to
969 remove and destroy the plants subject to the special permit
970 within 60 days after issuance of the order, or such shorter



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971 period as is designated in the order as public health, safety,
972 or welfare requires, the department may enter the cultivated
973 acreage and remove and destroy the plants that are the subject
974 of the special permit. If the permitholder makes a written
975 request to the department for an extension of time to remove and
976 destroy the plants that demonstrates specific facts showing why
977 the plants could not reasonably be removed and destroyed in the
978 applicable timeframe, the department may extend the time for
979 removing and destroying plants subject to a special permit. The
980 reasonable costs and expenses incurred by the department for
981 removing and destroying plants subject to a special permit shall
982 be reimbursed to the department by the permitholder within 21
983 days after the date the permitholder and the surety company or
984 financial institution are served a copy of the department's
985 invoice for the costs and expenses incurred by the department to
986 remove and destroy the cultivated plants, along with a notice of
987 administrative rights, unless the permitholder or the surety
988 company or financial institution object to the reasonableness of
989 the invoice. In the event of an objection, the permitholder or
990 surety company or financial institution is entitled to an
991 administrative proceeding as provided by chapter 120. Upon entry
992 of a final order determining the reasonableness of the incurred
993 costs and expenses, the permitholder has ~~shall have~~ 15 days
994 after following service of the final order to reimburse the
995 department. Failure of the permitholder to timely reimburse the
996 department for the incurred costs and expenses entitles the
997 department to reimbursement from the applicable bond or
998 certificate of deposit.

999 (e) Each permitholder shall maintain for each separate



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1000 growing location a bond or a certificate of deposit in an amount
1001 determined by the department, but not more ~~less~~ than 150 percent
1002 of the estimated cost of removing and destroying the cultivated
1003 plants. The bond or certificate of deposit may not exceed \$5,000
1004 per acre, unless a higher amount is determined by the department
1005 to be necessary to protect the public health, safety, and
1006 welfare or unless an exemption is granted by the department
1007 based on conditions specified in the application which would
1008 preclude the department from incurring the cost of removing and
1009 destroying the cultivated plants and would prevent injury to the
1010 public health, safety, and welfare. The aggregate liability of
1011 the surety company or financial institution to all persons for
1012 all breaches of the conditions of the bond or certificate of
1013 deposit may not exceed the amount of the bond or certificate of
1014 deposit. The original bond or certificate of deposit required by
1015 this subsection shall be filed with the department. A surety
1016 company shall give the department 30 days' written notice of
1017 cancellation, by certified mail, in order to cancel a bond.
1018 Cancellation of a bond does not relieve a surety company of
1019 liability for paying to the department all costs and expenses
1020 incurred or to be incurred for removing and destroying the
1021 permitted plants covered by an immediate final order authorized
1022 under paragraph (c). A bond or certificate of deposit must be
1023 provided or assigned in the exact name in which an applicant
1024 applies for a special permit. The penal sum of the bond or
1025 certificate of deposit to be furnished to the department by a
1026 permitholder in the amount specified in this paragraph must
1027 guarantee payment of the costs and expenses incurred or to be
1028 incurred by the department for removing and destroying the



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1029 plants cultivated under the issued special permit. The bond or
1030 certificate of deposit assignment or agreement must be upon a
1031 form prescribed or approved by the department and must be
1032 conditioned to secure the faithful accounting for and payment of
1033 all costs and expenses incurred by the department for removing
1034 and destroying all plants cultivated under the special permit.
1035 The bond or certificate of deposit assignment or agreement must
1036 include terms binding the instrument to the Commissioner of
1037 Agriculture. Such certificate of deposit shall be presented with
1038 an assignment of the permitholder's rights in the certificate in
1039 favor of the Commissioner of Agriculture on a form prescribed by
1040 the department and with a letter from the issuing institution
1041 acknowledging that the assignment has been properly recorded on
1042 the books of the issuing institution and will be honored by the
1043 issuing institution. Such assignment is irrevocable while a
1044 special permit is in effect and for an additional period of 6
1045 months after termination of the special permit if operations to
1046 remove and destroy the permitted plants are not continuing and
1047 if the department's invoice remains unpaid by the permitholder
1048 under the issued immediate final order. If operations to remove
1049 and destroy the plants are pending, the assignment remains in
1050 effect until all plants are removed and destroyed and the
1051 department's invoice has been paid. The bond or certificate of
1052 deposit may be released by the assignee of the surety company or
1053 financial institution to the permitholder, or to the
1054 permitholder's successors, assignee, or heirs, if operations to
1055 remove and destroy the permitted plants are not pending and no
1056 invoice remains unpaid at the conclusion of 6 months after the
1057 last effective date of the special permit. The department may



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1058 not accept a certificate of deposit that contains any provision
1059 that would give to any person any prior rights or claim on the
1060 proceeds or principal of such certificate of deposit. The
1061 department shall determine by rule whether an annual bond or
1062 certificate of deposit will be required. The amount of such bond
1063 or certificate of deposit shall be increased, upon order of the
1064 department, at any time if the department finds such increase to
1065 be warranted by the cultivating operations of the permitholder.
1066 In the same manner, the amount of such bond or certificate of
1067 deposit may be adjusted downward or removed ~~decreased~~ when a
1068 decrease in the cultivating operations of the permitholder
1069 occurs or when research or practical field knowledge and
1070 observations indicate a low risk of invasiveness by the
1071 nonnative species warrants such decrease. Factors that may be
1072 considered for change include multiple years or cycles of
1073 successful large-scale contained cultivation; no observation of
1074 plant, algae, or blue-green algae escape from managed areas; or
1075 science-based evidence that established or approved adjusted
1076 cultivation practices provide a similar level of containment of
1077 the nonnative plant, algae, or blue-green algae. This paragraph
1078 applies to any bond or certificate of deposit, regardless of the
1079 anniversary date of its issuance, expiration, or renewal.

1080 (f) In order to carry out the purposes of this subsection,
1081 the department or its agents may require from any permitholder
1082 verified statements of the cultivated acreage subject to the
1083 special permit and may review the permitholder's business or
1084 cultivation records at her or his place of business during
1085 normal business hours in order to determine the acreage
1086 cultivated. The failure of a permitholder to furnish such



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1087 statement, to make such records available, or to make and
1088 deliver a new or additional bond or certificate of deposit is
1089 cause for suspension of the special permit. If the department
1090 finds such failure to be willful, the special permit may be
1091 revoked.

1092 Section 12. The Department of Agriculture and Consumer
1093 Services shall conduct a comprehensive statewide forest
1094 inventory analysis and study, using a geographic information
1095 system, to identify where available biomass is located,
1096 determine the available biomass resources, and ensure forest
1097 sustainability within the state. The department shall submit the
1098 results of the study to the President of the Senate, the Speaker
1099 of the House of Representatives, and the Executive Office of the
1100 Governor by July 1, 2013.

1101 Section 13. The Office of Energy within the Department of
1102 Agriculture and Consumer Services, in consultation with the
1103 Public Service Commission, the Florida Building Commission, and
1104 the Florida Energy Systems Consortium, shall develop a
1105 clearinghouse of information regarding cost savings associated
1106 with various energy efficiency and conservation measures. The
1107 department shall post the information on its website by July 1,
1108 2013.

1109 Section 14. For the 2012-2013 fiscal year, the nonrecurring
1110 sum of \$250,000 is appropriated from the Florida Public Service
1111 Regulatory Trust Fund for the purpose of the Public Service
1112 Commission, in consultation with the Department of Agriculture
1113 and Consumer Services, contracting for an independent evaluation
1114 of the Florida Energy Efficiency and Conservation Act to
1115 determine if the act remains in the public interest. The



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1116 evaluation must consider the costs to ratepayers, the incentives
1117 and disincentives associated with the provisions in the act, and
1118 if the programs create benefits without undue burden on the
1119 customer. The models and methods used to determine conservation
1120 goals must be specifically addressed in the report. The
1121 commission shall submit the report to the President of the
1122 Senate, the Speaker of the House of Representatives, and the
1123 Executive Office of the Governor by January 31, 2013.

1124 Section 15. This act shall take effect July 1, 2012.

1125
1126 ===== T I T L E A M E N D M E N T =====

1127 And the title is amended as follows:

1128 Delete everything before the enacting clause
1129 and insert:

1130 A bill to be entitled
1131 An act relating to energy; amending s. 186.801, F.S.;
1132 adding factors for the Public Service Commission to
1133 consider in reviewing the 10-year site plans submitted
1134 to the commission by electric utilities; amending s.
1135 212.055, F.S.; providing for a portion of the proceeds
1136 of the local government infrastructure surtax to be
1137 used for financial assistance to homeowners who make
1138 energy efficiency improvements or install renewable
1139 energy devices; defining the term "energy efficiency
1140 improvement"; amending s. 212.08, F.S.; providing
1141 definitions for the terms "biodiesel," "ethanol," and
1142 "renewable fuel"; providing for tax exemptions in the
1143 form of a rebate for the sale or use of certain
1144 equipment, machinery, and other materials for



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1145 renewable energy technologies; providing eligibility
1146 requirements and tax credit limits; authorizing the
1147 Department of Revenue and the Department of
1148 Agriculture and Consumer Services to adopt rules;
1149 directing the Department of Agriculture and Consumer
1150 Services to determine and publish certain information
1151 relating to exemptions; providing for expiration of
1152 the exemption; amending s. 220.192, F.S., providing
1153 definitions; reestablishing a corporate tax credit for
1154 certain costs related to renewable energy
1155 technologies; providing eligibility requirements and
1156 credit limits; providing rulemaking authority to the
1157 Department of Revenue and the Department of
1158 Agriculture and Consumer Services; directing the
1159 Department of Agriculture and Consumer Services to
1160 determine and publish certain information; providing
1161 for expiration of the tax credit; amending s. 220.193,
1162 F.S.; reestablishing a corporate tax credit for
1163 renewable energy production; providing definitions;
1164 providing a tax credit for the production and sale of
1165 renewable energy; providing requirements relating to
1166 the priority and proration of such tax credits under
1167 certain circumstances; providing for the use and
1168 transfer of the tax credit; limiting the amount of tax
1169 credits that may be granted to all taxpayers during a
1170 specified period; providing rulemaking authority to
1171 the Department of Revenue; providing for expiration of
1172 the tax credit; amending s. 255.257, F.S.; directing
1173 the Department of Management Services, in coordination



1174 with the Department of Agriculture and Consumer
1175 Services, to further develop the state energy
1176 management plan; amending s. 288.106, F.S.; redefining
1177 the term "target industry business," for purposes of a
1178 tax refund program, to exclude certain electrical
1179 utilities; amending s. 366.92, F.S.; deleting an
1180 obsolete directive to the Public Service Commission to
1181 adopt rules for a renewable portfolio standard;
1182 deleting related definitions; creating s. 366.94,
1183 F.S.; providing that the provision of electric vehicle
1184 charging to the public by a nonutility is not the
1185 retail sale of electricity; providing that the rates,
1186 terms, and conditions of electric vehicle charging
1187 services by a nonutility are not subject to regulation
1188 under ch. 366, F.S.; requiring the Department of
1189 Agriculture and Consumer Services to develop rules for
1190 sales at electric vehicle charging stations;
1191 prohibiting the obstruction of a parking space at an
1192 electric vehicle charging station; providing a
1193 penalty; requiring that the Public Service Commission
1194 study the effects of charging stations on energy
1195 consumption in the state and the effects on the grid
1196 and report the results to the President of the Senate,
1197 the Speaker of the House of Representatives, and the
1198 Executive office of the Governor; amending s. 526.203,
1199 F.S.; revising the definitions of the terms "blended
1200 gasoline" and "unblended gasoline"; defining the term
1201 "alternative fuel"; authorizing the sale of unblended
1202 fuels for certain uses; directing the Department of



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1203 Agriculture and Consumer Services to compile a list of
1204 retail fuel stations that sell or offer to sell
1205 unblended gasoline and provide that information on the
1206 department's website; amending s. 581.083, F.S.;
1207 prohibiting the cultivation of certain algae in
1208 plantings greater in size than 2 contiguous acres;
1209 providing exceptions; providing for exemption from
1210 special permitting requirements by rule; revising
1211 certain bonding requirements; requiring the Department
1212 of Agriculture and Consumer Services to conduct a
1213 statewide forest inventory; requiring the Department
1214 of Agriculture and Consumer Services to work with
1215 other specified entities to develop information on
1216 cost savings for energy efficiency and conservation
1217 measures and post it on the department's website;
1218 providing an appropriation from the Florida Public
1219 Service Regulatory Trust Fund for the purpose of the
1220 Public Service Commission, in consultation with the
1221 Department of Agriculture and Consumer Services, to
1222 contract for an independent evaluation of the Florida
1223 Energy Efficiency and Conservation Act; requiring
1224 reports to the Legislature and the Executive Office of
1225 the Governor; providing an effective date.