

1                                   A bill to be entitled  
2       An act relating to hydrogen energy technology; creating s.  
3       377.801, F.S.; creating the Hydrogen Energy Technologies  
4       Act; providing a popular name; creating s. 377.802, F.S.;  
5       providing legislative findings and intent; creating s.  
6       377.803, F.S.; providing legislative purpose; creating s.  
7       377.804, F.S.; providing definitions; creating s. 377.805,  
8       F.S.; creating the Hydrogen Energy Technologies Grants  
9       Program in the Department of Environmental Protection to  
10      provide grants for demonstration, commercialization,  
11      research, and development projects relating to hydrogen  
12      energy technologies; providing requirements and procedures  
13      therefor; providing rulemaking authority; amending s.  
14      212.08, F.S.; creating a sales tax exemption for certain  
15      hydrogen energy technology projects; providing  
16      requirements and procedures therefor; requiring the  
17      Department of Environmental Protection to make  
18      determinations relating to certain projects; authorizing  
19      the Department of Revenue to adopt rules for tax exempt  
20      purchases; providing for future repeal of the exemption;  
21      amending s. 213.053, F.S.; providing for information  
22      sharing between the Department of Revenue and the  
23      Department of Environmental Protection; amending s.  
24      220.02, F.S.; providing for the addition of tax credits  
25      relating to hydrogen energy technologies in the priority  
26      order of tax credits; creating s. 220.192, F.S.; creating  
27      a hydrogen energy technologies investment tax credit;  
28      providing definitions; providing requirements and

29 | procedures therefor; authorizing the Department of Revenue  
30 | to perform certain audits and investigations; requiring  
31 | the Department of Environmental Protection to provide  
32 | technical assistance in certain audits and investigations;  
33 | providing for revocation or modification of credits;  
34 | providing for payment of tax and interest under certain  
35 | circumstances; providing rulemaking authority; providing  
36 | for future repeal of the credit; amending s. 220.13, F.S.;  
37 | revising the definition of the term "adjusted federal  
38 | income" to include the amount taken as a credit for  
39 | expenses related to hydrogen energy technologies; amending  
40 | s. 366.8255, F.S.; revising the definition of the term  
41 | "environmental compliance costs" to include costs related  
42 | to the deployment of hydrogen energy technologies;  
43 | providing for cost recovery of utility investment in  
44 | hydrogen energy technologies; amending s. 633.022, F.S.;  
45 | authorizing the State Fire Marshal to adopt uniform  
46 | standards for hydrogen fueling, storage, and production  
47 | facilities; providing rulemaking authority; providing an  
48 | effective date.

49 |  
50 | Be It Enacted by the Legislature of the State of Florida:

51 |  
52 | Section 1. Section 377.801, Florida Statutes, is created  
53 | to read:

54 | 377.801 Popular name.--Sections 377.801-377.805 may be  
55 | cited as the "Hydrogen Energy Technologies Act."

56 Section 2. Section 377.802, Florida Statutes, is created  
57 to read:

58 377.802 Legislative findings and intent.--The Legislature  
59 finds that advancing the development of clean and efficient  
60 energy technologies is important for the state's future, energy  
61 stability, and protection of its citizens' public health and its  
62 environment. The Legislature finds that hydrogen can be used as  
63 a clean and efficient energy carrier and that the development of  
64 hydrogen energy technologies in the state will help to reduce  
65 pollution, reduce demand on foreign fuels, promote energy  
66 diversity, enhance system reliability, educate the public on the  
67 promise of alternative energy technologies, and promote economic  
68 growth. The Legislature finds that the promotion of hydrogen  
69 energy technologies will also promote the development of  
70 associated energy technologies, including fuel cells and solar  
71 technologies. The Legislature finds that there is a need to  
72 assist in the development of early market demand that will  
73 advance the commercialization and widespread application of  
74 hydrogen energy technologies. The Legislature further finds that  
75 the state is ideally positioned to stimulate economic  
76 development through such advanced energy technologies due to its  
77 ongoing and successful research and development track record in  
78 this area, an abundance of natural and renewable energy sources,  
79 an ability to attract significant research and development  
80 federal dollars, and the need to find and secure clean energy  
81 technologies for the benefit of its citizens, visitors, and  
82 environment.

83 Section 3. Section 377.803, Florida Statutes, is created  
 84 to read:

85 377.803 Purpose.--This act is intended to provide matching  
 86 grants to stimulate capital investment in the state and to  
 87 enhance the market for and promote the statewide utilization of  
 88 hydrogen energy technologies. The targeted grants program is  
 89 designed to advance the already growing establishment of  
 90 hydrogen energy technologies in the state and encourage the use  
 91 of other incentives such as tax exemptions and regulatory  
 92 certainty to attract additional hydrogen energy technology  
 93 producers, developers, and users to the state.

94 Section 4. Section 377.804, Florida Statutes, is created  
 95 to read:

96 377.804 Definitions.--As used in this act, the term:

97 (1) "Act" means the Hydrogen Energy Technologies Act.

98 (2) "Balance of plant" means all equipment and components  
 99 directly involved in the generation, storage, or use of hydrogen  
 100 for energy production located at the site of hydrogen generation  
 101 or use.

102 (3) "Department" means the Department of Environmental  
 103 Protection.

104 (4) "Electrical grid optimization" means the use of  
 105 hydrogen energy technology to assist in decreasing electrical  
 106 peak demand.

107 (5) "Fuel cell" means equipment using an electrochemical  
 108 process to generate energy, electricity, or the transfer of  
 109 heat.

110       (6) "Hydrogen energy technology" means any technology that  
111 is used primarily for the purpose of generating or using  
112 hydrogen directly as a fuel in the state, including, but not  
113 limited to:

114       (a) Stationary fuel cell systems, or internal combustion  
115 engine systems fueled with hydrogen, used for power generation,  
116 including prime power, supplemental power, and backup power, and  
117 the balance of the plant;

118       (b) On-road and off-road vehicles and watercraft powered  
119 by fuel cells or internal combustion engines fueled with  
120 hydrogen;

121       (c) Fueling systems and supportive infrastructure;

122       (d) Renewable energy resource systems used to  
123 electrolytically produce hydrogen;

124       (e) Reformer technologies used to produce hydrogen from  
125 the respective hydrogen carrier, including, but limited to,  
126 steam-methane, biomass, and chemical technologies;

127       (f) Electrical grid electrolysis; and

128       (g) Electrical grid optimization technologies.

129       (7) "Person" means an individual, partnership, joint  
130 venture, private or public corporation, association, firm,  
131 public service company, or any other entity, public or private,  
132 however organized.

133       (8) "Renewable energy resource" means any method, process,  
134 or substance, the use of which does not diminish its  
135 availability or abundance, including, but not limited to, solar  
136 energy, wind energy, thermal gradient power, hydroelectric  
137 power, and fuels derived from agricultural products. However,

138 the term "renewable energy resource" does not include fossil  
139 fuel or nuclear power.

140 Section 5. Section 377.805, Florida Statutes, is created  
141 to read:

142 377.805 Hydrogen Energy Technologies Grants Program.--

143 (1) The Hydrogen Energy Technologies Grants Program is  
144 established within the department to provide hydrogen energy  
145 matching grants for demonstration, commercialization, research,  
146 and development projects relating to hydrogen energy  
147 technologies and electrical grid optimization.

148 (2) Matching grants for hydrogen energy demonstration,  
149 commercialization, research, and development projects may be  
150 made to any of the following based on the criteria in this  
151 section:

152 (a) Municipalities and county governments;

153 (b) Established for-profit companies licensed to do  
154 business in the state;

155 (c) State universities;

156 (d) Utilities located and operating within the state;

157 (e) Nonprofit organizations; and

158 (f) Qualified persons.

159 (3) The department shall adopt rules to administer the  
160 awarding of grants under this program.

161 (4) Factors the department shall consider in awarding  
162 grants include, but are not limited to:

163 (a) The extent to which the project stimulates in-state  
164 capital investment and economic development in metropolitan and  
165 rural areas, including the creation of jobs and the future

166 development of a commercial market for clean energy  
 167 technologies;  
 168 (b) The availability of matching funds from an applicant  
 169 and the commitment to provide the matching funds;  
 170 (c) The ability to administer a complete project;  
 171 (d) Project duration and timeline for expenditures;  
 172 (e) The geographic area in which the project is to be  
 173 conducted in relation to other projects;  
 174 (f) Other in-kind contributions applied to the total  
 175 project;  
 176 (g) The extent to which the project incorporates an  
 177 innovative new technology or an innovative application of an  
 178 existing technology;  
 179 (h) The degree to which a project generates thermal or  
 180 electrical energy by means of a low or zero-emissions generation  
 181 technology or renewable energy resource that has substantial  
 182 long-term production potential;  
 183 (i) The degree to which the project fosters the general  
 184 public's, a student's, or a specific government or industry  
 185 sector's overall understanding and appreciation of clean energy  
 186 technologies; and  
 187 (j) The degree of public visibility and interaction.  
 188 (5) Grants awarded to any entity may subsequently be  
 189 amended by the department upon a determination that sufficient  
 190 criteria as provided in subsection (4) are met for the  
 191 additional funds.  
 192 (6) The department shall provide a progress report on  
 193 grants awarded to recipients to the Governor, the President of

194 the Senate, and the Speaker of the House of Representatives. The  
 195 report shall include:

196 (a) A description of the extent to which the grants  
 197 program is benefiting the state's environment, public health,  
 198 and economic development;

199 (b) A list of grant recipients;

200 (c) The amount of each grant;

201 (d) The amount of matching funds provided by recipients;

202 (e) The date of each grant;

203 (f) A description of each project or expansion funded by a  
 204 grant; and

205 (g) A description of each project's contribution to the  
 206 state's knowledge and use of hydrogen energy technologies.

207 Section 6. Paragraph (ccc) is added to subsection (7) of  
 208 section 212.08, Florida Statutes, to read:

209 212.08 Sales, rental, use, consumption, distribution, and  
 210 storage tax; specified exemptions.--The sale at retail, the  
 211 rental, the use, the consumption, the distribution, and the  
 212 storage to be used or consumed in this state of the following  
 213 are hereby specifically exempt from the tax imposed by this  
 214 chapter.

215 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any  
 216 entity by this chapter do not inure to any transaction that is  
 217 otherwise taxable under this chapter when payment is made by a  
 218 representative or employee of the entity by any means,  
 219 including, but not limited to, cash, check, or credit card, even  
 220 when that representative or employee is subsequently reimbursed  
 221 by the entity. In addition, exemptions provided to any entity by



222 this subsection do not inure to any transaction that is  
 223 otherwise taxable under this chapter unless the entity has  
 224 obtained a sales tax exemption certificate from the department  
 225 or the entity obtains or provides other documentation as  
 226 required by the department. Eligible purchases or leases made  
 227 with such a certificate must be in strict compliance with this  
 228 subsection and departmental rules, and any person who makes an  
 229 exempt purchase with a certificate that is not in strict  
 230 compliance with this subsection and the rules is liable for and  
 231 shall pay the tax. The department may adopt rules to administer  
 232 this subsection.

233 (ccc) Equipment, machinery, and other materials for  
 234 hydrogen energy technologies.--

235 1. The sale or use of hydrogen energy technologies as  
 236 defined in s. 377.804(6) and materials used in the manufacture  
 237 of hydrogen energy technologies is exempt from the tax imposed  
 238 by this chapter.

239 2.a. The Department of Environmental Protection shall  
 240 provide to the Department of Revenue a list of items considered  
 241 to meet the definition of hydrogen energy technologies as  
 242 defined in s. 377.804(6).

243 b. Any person may request a determination from the  
 244 Department of Environmental Protection as to whether an item  
 245 that is not on the list meets the definition of hydrogen energy  
 246 technologies as defined in s. 377.804(6). The Department of  
 247 Environmental Protection shall make a determination and issue a  
 248 revised list if appropriate. The Department of Environmental

249 Protection is authorized to adopt rules to implement this sub-  
 250 subparagraph.

251 3. The Department of Revenue is authorized to provide by  
 252 rule procedures for purchasers to make tax-exempt purchases.

253 4. This exemption is repealed July 1, 2009.

254 Section 7. Paragraph (y) is added to subsection (7) of  
 255 section 213.053, Florida Statutes, to read:

256 213.053 Confidentiality and information sharing.--

257 (7) Notwithstanding any other provision of this section,  
 258 the department may provide:

259 (y) Information relative to ss. 212.08(7)(ccc) and 220.192  
 260 to the Department of Environmental Protection for use in the  
 261 conduct of its official business.

262  
 263 Disclosure of information under this subsection shall be  
 264 pursuant to a written agreement between the executive director  
 265 and the agency. Such agencies, governmental or nongovernmental,  
 266 shall be bound by the same requirements of confidentiality as  
 267 the Department of Revenue. Breach of confidentiality is a  
 268 misdemeanor of the first degree, punishable as provided by s.  
 269 775.082 or s. 775.083.

270 Section 8. Subsection (8) of section 220.02, Florida  
 271 Statutes, is amended to read:

272 220.02 Legislative intent.--

273 (8) It is the intent of the Legislature that credits  
 274 against either the corporate income tax or the franchise tax be  
 275 applied in the following order: those enumerated in s. 631.828,  
 276 those enumerated in s. 220.191, those enumerated in s. 220.181,

HB 1597

2005

277 those enumerated in s. 220.183, those enumerated in s. 220.182,  
 278 those enumerated in s. 220.1895, those enumerated in s. 221.02,  
 279 those enumerated in s. 220.184, those enumerated in s. 220.186,  
 280 those enumerated in s. 220.1845, those enumerated in s. 220.19,  
 281 those enumerated in s. 220.185, ~~and~~ those enumerated in s.  
 282 220.187, and those enumerated in s. 220.192.

283 Section 9. Section 220.192, Florida Statutes, is created  
 284 to read:

285 220.192 Hydrogen energy technologies investment tax  
 286 credit.--

287 (1) DEFINITIONS.--For purposes of this section, the term:

288 (a) "Eligible costs" means all capital costs, operation  
 289 and maintenance costs, and research and development costs  
 290 incurred between July 1, 2005, and June 30, 2009, in connection  
 291 with an investment in hydrogen energy technologies in the state,  
 292 including, but not limited to, the costs of acquiring, leasing,  
 293 constructing, installing, equipping, and financing of such  
 294 hydrogen energy technologies in the state, and including all  
 295 obligations incurred for labor and obligations to contractors,  
 296 subcontractors, builders, and materialmen in the state.

297 (b) "Hydrogen energy technologies" means hydrogen energy  
 298 technologies as defined in s. 377.804(6).

299 (2) TAX CREDIT.--For tax years beginning on or after  
 300 January 1, 2005, a credit against the tax imposed by this  
 301 chapter shall be granted in an amount equal to 75 percent of the  
 302 eligible costs. Credits may be used in tax years beginning on or  
 303 after January 1, 2005, and ending on or before December 31,  
 304 2011, after which the credit expires and may not be used. If the

305 credit under this section is not fully used in any one tax year  
306 because of insufficient tax liability on the part of the  
307 corporation, the unused amount may be carried forward and  
308 utilized in tax years beginning on or after January 1, 2006, and  
309 ending on or before December 31, 2011, after which the credit  
310 carryover expires and may not be used. A taxpayer that files a  
311 consolidated return in this state as a member of an affiliated  
312 group under s. 220.131(1) may be allowed the credit on a  
313 consolidated return basis up to the amount of tax imposed upon  
314 the consolidated group. Any eligible cost for which a credit is  
315 claimed and which is deducted or otherwise reduces federal  
316 taxable income shall be added back in computing adjusted federal  
317 income under s. 220.13.

318 (3) APPLICATION PROCESS.--Any corporation wishing to  
319 obtain tax credits available under this section must submit to  
320 the Department of Environmental Protection an application for  
321 tax credit that includes a complete description of all eligible  
322 costs for which the corporation is seeking a credit and a  
323 description of the total amount of credits sought. The  
324 Department of Environmental Protection shall make a  
325 determination on the eligibility of the applicant for the  
326 credits sought and certify the determination to the applicant  
327 and the Department of Revenue. The corporation must attach the  
328 Department of Environmental Protection's certification to the  
329 tax return on which the credit is claimed. The Department of  
330 Environmental Protection is authorized to adopt the necessary  
331 rules, guidelines, and application materials for the application  
332 process.

333       (4) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF CREDITS;  
 334 DISPOSITION OR ABANDONMENT OF CREDIT PROPERTY.--

335       (a) In addition to its existing audit and investigation  
 336 authority, the Department of Revenue may perform any additional  
 337 financial and technical audits and investigations, including  
 338 examining the accounts, books, and records of the tax credit  
 339 applicant, that are necessary to verify the eligible costs  
 340 included in the tax credit return and to ensure compliance with  
 341 this section. The Department of Environmental Protection shall  
 342 provide technical assistance when requested by the Department of  
 343 Revenue on any technical audits or examinations performed  
 344 pursuant to this section.

345       (b) It is grounds for forfeiture of previously claimed and  
 346 received tax credits if the Department of Revenue determines, as  
 347 a result of either an audit or examination or from information  
 348 received from the Department of Environmental Protection, that a  
 349 taxpayer received tax credits pursuant to this section to which  
 350 the taxpayer was not entitled. The taxpayer is responsible for  
 351 returning forfeited tax credits to the Department of Revenue,  
 352 and such funds shall be paid into the General Revenue Fund of  
 353 the state.

354       (c) The Department of Environmental Protection may revoke  
 355 or modify any written decision granting eligibility for tax  
 356 credits under this section if it is discovered that the tax  
 357 credit applicant submitted any false statement, representation,  
 358 or certification in any application, record, report, plan, or  
 359 other document filed in an attempt to receive tax credits under  
 360 this section. The Department of Environmental Protection shall

361 immediately notify the Department of Revenue of any revoked or  
 362 modified orders affecting previously granted tax credits.  
 363 Additionally, the taxpayer must notify the Department of Revenue  
 364 of any change in its tax credit claimed.

365 (d) The taxpayer shall file with the Department of Revenue  
 366 an amended return or such other report as the Department of  
 367 Revenue prescribes by rule and shall pay any required tax and  
 368 interest within 60 days after the taxpayer receives notification  
 369 from the Department of Environmental Protection that previously  
 370 approved tax credits have been revoked or modified. If the  
 371 revocation or modification order is contested, the taxpayer  
 372 shall file as provided in this paragraph within 60 days after a  
 373 final order is issued following proceedings.

374 (e) A notice of deficiency may be issued by the Department  
 375 of Revenue at any time within 5 years after the taxpayer  
 376 receives formal notification from the Department of  
 377 Environmental Protection that previously approved tax credits  
 378 have been revoked or modified. If a taxpayer fails to notify the  
 379 Department of Revenue of any changes to its tax credit claimed,  
 380 a notice of deficiency may be issued at any time.

381 (f) A taxpayer that receives a credit under this section  
 382 for the construction or purchase of structures or the purchase  
 383 of equipment shall recapture and repay the amount of credit  
 384 attributable to such property in the event that such property is  
 385 not utilized by the taxpayer for hydrogen energy technologies  
 386 through the warranty period of the complete system or system  
 387 components. In the event a warranty is not provided by the  
 388 equipment manufacturer, the equipment must be operated for the

389 useful life of the complete system or system components. No  
 390 credit shall be allowed under this section for an eligible cost  
 391 associated with an investment in hydrogen energy technologies if  
 392 the credit has previously been allowed for such eligible cost.

393 (5) RULES.--The Department of Revenue shall have the  
 394 authority to adopt rules relating to the forms required to claim  
 395 a tax credit under this section, the requirements and basis for  
 396 establishing an entitlement to a credit, and the examination and  
 397 audit procedures required to administer this section.

398 (6) REPEAL.--The provisions of this section, except the  
 399 credit carryover provisions provided in subsection (2), are  
 400 repealed on July 1, 2009.

401 Section 10. Paragraph (a) of subsection (1) of section  
 402 220.13, Florida Statutes, is amended to read:

403 220.13 "Adjusted federal income" defined.--

404 (1) The term "adjusted federal income" means an amount  
 405 equal to the taxpayer's taxable income as defined in subsection  
 406 (2), or such taxable income of more than one taxpayer as  
 407 provided in s. 220.131, for the taxable year, adjusted as  
 408 follows:

409 (a) Additions.--There shall be added to such taxable  
 410 income:

411 1. The amount of any tax upon or measured by income,  
 412 excluding taxes based on gross receipts or revenues, paid or  
 413 accrued as a liability to the District of Columbia or any state  
 414 of the United States which is deductible from gross income in  
 415 the computation of taxable income for the taxable year.

416           2. The amount of interest which is excluded from taxable  
 417 income under s. 103(a) of the Internal Revenue Code or any other  
 418 federal law, less the associated expenses disallowed in the  
 419 computation of taxable income under s. 265 of the Internal  
 420 Revenue Code or any other law, excluding 60 percent of any  
 421 amounts included in alternative minimum taxable income, as  
 422 defined in s. 55(b)(2) of the Internal Revenue Code, if the  
 423 taxpayer pays tax under s. 220.11(3).

424           3. In the case of a regulated investment company or real  
 425 estate investment trust, an amount equal to the excess of the  
 426 net long-term capital gain for the taxable year over the amount  
 427 of the capital gain dividends attributable to the taxable year.

428           4. That portion of the wages or salaries paid or incurred  
 429 for the taxable year which is equal to the amount of the credit  
 430 allowable for the taxable year under s. 220.181. The provisions  
 431 of this subparagraph shall expire and be void on June 30, 2005.

432           5. That portion of the ad valorem school taxes paid or  
 433 incurred for the taxable year which is equal to the amount of  
 434 the credit allowable for the taxable year under s. 220.182. The  
 435 provisions of this subparagraph shall expire and be void on June  
 436 30, 2005.

437           6. The amount of emergency excise tax paid or accrued as a  
 438 liability to this state under chapter 221 which tax is  
 439 deductible from gross income in the computation of taxable  
 440 income for the taxable year.

441           7. That portion of assessments to fund a guaranty  
 442 association incurred for the taxable year which is equal to the  
 443 amount of the credit allowable for the taxable year.



444           8. In the case of a nonprofit corporation which holds a  
 445 pari-mutuel permit and which is exempt from federal income tax  
 446 as a farmers' cooperative, an amount equal to the excess of the  
 447 gross income attributable to the pari-mutuel operations over the  
 448 attributable expenses for the taxable year.

449           9. The amount taken as a credit for the taxable year under  
 450 s. 220.1895.

451           10. Up to nine percent of the eligible basis of any  
 452 designated project which is equal to the credit allowable for  
 453 the taxable year under s. 220.185.

454           11. The amount taken as a credit for the taxable year  
 455 under s. 220.187.

456           12. The amount taken as a credit for the taxable year  
 457 under s. 220.192.

458           Section 11. Paragraph (d) of subsection (1) of section  
 459 366.8255, Florida Statutes, is amended to read:

460           366.8255 Environmental cost recovery.--

461           (1) As used in this section, the term:

462           (d) "Environmental compliance costs" includes all costs or  
 463 expenses incurred by an electric utility in complying with  
 464 environmental laws or regulations, or in deploying hydrogen  
 465 energy technologies, as defined in s. 377.804(6), including, but  
 466 not limited to:

- 467           1. Inservice capital investments, including the electric
- 468 utility's last authorized rate of return on equity thereon;
- 469           2. Operation and maintenance expenses;
- 470           3. Fuel procurement costs;
- 471           4. Purchased power costs;

- 472           5. Emission allowance costs;
- 473           6. Direct taxes on environmental equipment; ~~and~~
- 474           7. Costs or expenses prudently incurred by an electric  
 475 utility pursuant to an agreement entered into on or after the  
 476 effective date of this act and prior to October 1, 2002, between  
 477 the electric utility and the Florida Department of Environmental  
 478 Protection or the United States Environmental Protection Agency  
 479 for the exclusive purpose of ensuring compliance with ozone  
 480 ambient air quality standards by an electrical generating  
 481 facility owned by the electric utility; and
- 482           8. Costs incurred between July 1, 2005, and June 30, 2009,  
 483 for hydrogen energy technologies, as defined in s. 377.804(6),  
 484 which have the potential to contribute to the provision of  
 485 adequate and reliable electric service to or for the public in  
 486 the state, and which have minimal rate impacts. The electric  
 487 utility shall demonstrate that the proposed hydrogen energy  
 488 technology meets the definition provided in s. 377.804(6).

489           Section 12. Subsection (1) of section 633.022, Florida  
 490 Statutes, is amended, and subsection (4) is added to said  
 491 section, to read:

492           633.022 Uniform firesafety standards.--The Legislature  
 493 hereby determines that to protect the public health, safety, and  
 494 welfare it is necessary to provide for firesafety standards  
 495 governing the construction and utilization of certain buildings  
 496 and structures. The Legislature further determines that certain  
 497 buildings or structures, due to their specialized use or to the  
 498 special characteristics of the person utilizing or occupying

499 | these buildings or structures, should be subject to firesafety  
 500 | standards reflecting these special needs as may be appropriate.

501 |       (1) The department shall establish uniform firesafety  
 502 | standards that apply to:

503 |       (a) All new, existing, and proposed state-owned and state-  
 504 | leased buildings.

505 |       (b) All new, existing, and proposed hospitals, nursing  
 506 | homes, assisted living facilities, adult family-care homes,  
 507 | correctional facilities, public schools, transient public  
 508 | lodging establishments, public food service establishments,  
 509 | elevators, migrant labor camps, mobile home parks, lodging  
 510 | parks, recreational vehicle parks, recreational camps,  
 511 | residential and nonresidential child care facilities, facilities  
 512 | for the developmentally disabled, motion picture and television  
 513 | special effects productions, ~~and~~ self-service gasoline stations,  
 514 | and hydrogen fueling, storage, and production facilities for  
 515 | stationary fuel cells and vehicles, including maintenance and  
 516 | repair facilities, of which standards the State Fire Marshal is  
 517 | the final administrative interpreting authority.

518 |  
 519 | In the event there is a dispute between the owners of the  
 520 | buildings specified in paragraph (b) and a local authority  
 521 | requiring a more stringent uniform firesafety standard for  
 522 | sprinkler systems, the State Fire Marshal shall be the final  
 523 | administrative interpreting authority and the State Fire  
 524 | Marshal's interpretation regarding the uniform firesafety  
 525 | standards shall be considered final agency action.

526       (4)(a) The State Fire Marshal shall have authority to  
527 adopt any rule necessary pertaining to or applicable to any  
528 building, structure, facility, condition, situation, or  
529 circumstance in which hydrogen is being used, produced, stored,  
530 or in any other manner dealt with or treated as a fuel as the  
531 State Fire Marshal deems necessary to protect the public health,  
532 safety, and welfare and to protect the safety of persons and  
533 property in the state, including, but not limited to, the  
534 adoption of the most recent edition of the National Fire  
535 Protection Association's NFPA 1 and any other applicable code,  
536 publication, or standard.

537       (b) The State Fire Marshal has the authority to require by  
538 rule that any equipment used in conjunction with paragraph (a)  
539 must be listed by a nationally recognized testing laboratory,  
540 such as Underwriters Laboratories, Inc., or Factory Mutual  
541 Laboratories, Inc. The State Fire Marshal has the authority to  
542 adopt by rule procedures for determining whether a laboratory is  
543 nationally recognized, taking into account the laboratory's  
544 facilities, procedures, use of nationally recognized standards,  
545 and any other criteria reasonably calculated to reach an  
546 informed determination.

547       Section 13. This act shall take effect July 1, 2005.