

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Governmental Oversight and Productivity Committee

BILL: CS/SB 592

SPONSOR: Governmental Oversight and Productivity Committee and Senator Bennett

SUBJECT: Alternative Energy

DATE: April 6, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Halloran</u>	<u>Caldwell</u>	<u>CU</u>	Favorable
2.	<u>Branning</u>	<u>Kiger</u>	<u>EP</u>	Fav/1 amendment
3.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	Fav/CS
4.	_____	_____	<u>TA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill creates the Florida Alternative Energy Technology Center, Inc. (Center), provides for its organization, purpose, and duties, and appropriates \$500,000 to fund the center.

The bill creates an as yet unnumbered section of the Florida Statutes.

II. Present Situation:

There is no entity similar to the Florida Alternative Energy Technology Center. The state Department of Environmental Protection operates the Florida Energy Office, which is the state's primary center for developing and implementing energy policy and coordinates all federal energy programs delegated to the state, including energy supply, demand, conservation, and allocation.

III. Effect of Proposed Changes:

Section 1. Provides legislative intent regarding the need for the Florida Alternative Energy Technology Center, Inc., and creates the center as a not-for-profit corporation. "Alternative energy technology" means energy technologies that are undeveloped or less than established in current markets. The term is defined to include, but is not limited to: hydrogen fuel; fuel cells; distributed generation; biodiesel and similar synthetic fuels; thermo-depolymerization; biomass; agricultural products and byproducts; municipal solid waste, including landfill injection, landfill mining, and landfill gas; solar thermal and solar photovoltaic energy; ocean energy, including wave or thermal; energy conservation, including building, equipment, and appliance efficiency technologies; enhancements to transmission of electricity, including advanced transmission lines; and environmental standards.

The Center is to be registered, incorporated, organized and operated in compliance with ch. 617, F.S., and is not to be considered a unit or entity of state government. However, public policy dictates that it operate in the most open and accessible manner. Thus, the Legislature specifically declares that the Center, its board of directors, and all similar working groups within it are subject to chapters 119 and 286, F.S., relating to public records and meetings.

The Center is to be the principal alternative energy technology organization for the state. It is also to provide leadership for research, development, and deployment of alternative energy technology, including production of, improvements in, or use of such technology. The Center is to have the following duties:

- Establish a unified approach to research, development, and deployment of alternative energy technology, with the cooperation of the Governor, the Legislature, the Department of Environmental Protection, the Statewide Board of Governors of the State University System, the Public Service Commission, and relevant private-sector entities; yet, the approach established must only supplement, not displace, the energy initiatives of the Department of Environmental Protection;
- Assist the state universities and the private sector in determining areas on which to focus research in alternative energy technology and to assist in coordinating research projects among the universities and relevant private sector entities;
- Assist the Department of Environmental Protection and the private sector in determining the areas on which to focus alternative-energy-technology development or deployment projects and in coordinating such projects among relevant public and private-sector entities;
- Promote the state as a location for businesses having operations related to alternative energy technologies in cooperation with Enterprise Florida, Inc., and the Department of Environmental Protection;
- Assist universities, other state entities, and private-sector entities in raising funds from all available public and private-sector sources for projects concerning research, development or deployment of alternative energy technology, including projects that involve production of, improvements in, or use of alternative energy technology in this state;
- Collect and maintain information relating to: funding sources, alternative-energy-technology research, development, or deployment projects that are or have been conducted or that are needed, and alternative-energy-technology businesses considering operations in Florida; and
- Make policy recommendations to Legislature, Governor, and state agencies and subdivisions.

Additionally, the Center may conduct projects concerning research, development, or deployment of alternative energy technology that are not or cannot be conducted by a state university or the Department of Environmental Protection. The Center may conduct such projects using only its own personnel and facilities, or in cooperation with one or more universities, one or more private sector entities, the Department of Environmental Protection, or any combination of such potential cooperating entities.

In performing these duties, the Center is required to ensure maximum benefit to the state, and must establish strategic priorities consistent with specified findings to guide funding allocations and ensure the best use of available resources.

The Center must establish one or more corporate offices, at least one of which must be located in Leon County. The Center is to be governed by a board of directors.

The Center's board of directors includes the following members:

- A representative from the Department of Environmental Protection;
- The President of Enterprise Florida, Inc., or designee;
- A representative from the Statewide Board of Education, selected by the members of that board;
- A representative selected by the Florida public utilities, as defined in s. 366.02, F.S.;
- A representative selected by the Florida municipal electric utilities and rural electric cooperatives;
- A representative, selected by the President of the Senate, who is a board member or executive officer of a business that is located in Florida and that does not have any business interests relating to energy and can provide guidance as to locating and operating a business in this state;
- A representative, selected by the Speaker of the House of Representatives, who is a board member or executive officer of a business that is located in Florida and that does not have any business interests relating to energy and can provide guidance as to locating and operating a business in this state;
- A representative selected by the Governor from an environmental group that is informed about energy matters of the state.

With the exception of the first three members listed, terms are for a period of 2 years, with a new representative selected at the end of that time.

Vacancies on the board must be filled in the same manner as the original appointment. Vacancies shall be filled for the remainder of the unexpired term, where applicable.

The board must select a chairperson biennially, upon appointment of all new members. Also, the board must meet at least four times each year, upon the call of the chairperson, or at the request of a majority of the membership. A majority of the total number of all directors constitutes a quorum. The board may take official action by a majority vote of the members present at any meeting at which a quorum is present.

Members of the board serve without compensation, but members, the president, and staff may be reimbursed for all reasonable, necessary, and actual expenses.

Each member of the board who is not otherwise required to file a financial disclosure statement must file such a disclosure statement as required pursuant to s. 112.3145, F.S.

The powers and duties of the board are specified. The powers granted to the Center are to be liberally construed so that it may aggressively pursue its purpose of being the principal alternative energy technology organization for the state.

Distributions must be made to the corporation from the Florida Electric Energy Trust Fund under a contract between the Public Service Commission and the corporation, including any funding that is directed by the Legislature to be paid to a specific recipient.

The credit of the State of Florida may not be pledged on behalf of the Center.

In addition to any indemnification available under ch. 617, F.S., the Center may indemnify, and purchase and maintain insurance on behalf of its directors, officers, employees, or working-group members against personal liability or accountability for actions taken within the scope of their employment or authority.

By December 1 each year, the Center must submit an annual report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairman of the State Board of Education. The report must include a description of the Center's activities and accomplishments; an annual financial accounting of resources and expenditures by an independent certified public accountant; a statement of its strategic priorities and their use in guiding resource allocations; and any recommendations the Center has for action by the Legislature or by the agencies of state, county or municipal governments to foster development or deployment of alternative energy technology.

Section 2. Appropriates \$500,000 from General Revenue to the Executive Office of the Governor to fund the activities of the Center for FY 2005-2006.

Section 3. Provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The bill provides that the corporation is explicitly subject to the requirements of ch. 119, F.S., the Public Records Law, and ch. 286, F.S., relating to public meetings and records. While explicitly stating this provides notice to the public and the corporation regarding the applicability of those provisions, the corporation would likely be subject to these requirements as *an agency acting on behalf of the state* as interpreted by the Florida Supreme Court in *News and Sun-Sentinel Company v. Schwab, Twitty & Hanser Architectural Group, Inc.*, 596 So.2d 1029 (Fla. 1992).

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill appropriates \$500,000 from General Revenue to the Office of the Governor to fund the activities of the Florida Alternative Energy Technology Center.

VI. Technical Deficiencies:

The bill provides that distributions to the corporation must be made from the Florida Electric Energy Trust Fund under a contract between the Public Service Commission and the corporation. The Florida Electric Energy Trust Fund does not exist. The bill provides that \$500,000 be appropriated from the General Revenue Fund to the Executive Office of the Governor for funding the activities of the corporation.

The provision relating to the Florida Electric Energy Trust Fund should be deleted from the bill.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
