

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 701

Alternative Energy

**SPONSOR(S):** Justice

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 572

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Utilities & Telecommunications Committee	_____	Cater	Holt
2) Environmental Regulation Committee	_____	_____	_____
3) Transportation & Economic Development Appropriations Committee	_____	_____	_____
4) Commerce Council	_____	_____	_____
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

The bill establishes the Florida Renewable Energy Center, Inc., (Center) as a not-for-profit corporation, to be the principal alternative energy technology organization for the state. Its primary functions are to provide leadership for research, development, and deployment of alternative energy technologies. These functions are to be accomplished through collaborative efforts with state universities, the private sector, and the Department of Environmental Protection (DEP). A goal for the Center is to develop and make recommendations to the Legislature, Governor, and state agencies for alternative energy policies.

The Center shall be governed by a board of directors, and the bill outlines the appointment process. Also, the bill includes the powers and functions of the board of directors

The bill provides for an appropriation of \$500,000 from the General Revenue Fund to the Executive Office of the Governor to fund the activities of the Center.

Further, provisions are included in the bill that provide for a contractual agreement between the Center and the Public Service Commission (PSC) to distribute funds from the Florida Electric Energy Trust Fund. However, there is no specific authority in the bill creating the Florida Electric Energy Trust Fund.

This act shall take effect upon becoming law.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government-The bill establishes the Florida Alternative Energy Technology Center as a not-for-profit corporation to be the principal alternative energy technology organization for the state.

### B. EFFECT OF PROPOSED CHANGES:

#### Background

The Department of Environmental Protection (DEP) 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.

Research on renewable energy resources, energy conservation, and other alternative energy sources is conducted by state universities, the Florida Solar Energy Center, and through grants from the DEP's Florida Energy Office.

#### Proposed Changes

The bill provides legislative findings that it is in the public interest to promote, conduct research on, and use renewable energy resources, energy conservation, distributed generation, advanced transmission methods, and pollution control. It also finds that Florida and the United States are overly dependent of fossil fuels to meet our energy needs, and that renewable energy and conservation resources has the potential to decrease our dependence on fossil fuels, minimize volatility in fuel costs, and improve environmental conditions. The bill also finds that distributed energy resources and enhancements to electric transmissions can potentially may the electricity supply more secure and decrease the likelihood and severity of blackouts. Additionally, research can make the state a leader in new and innovative technologies and encourage investment and economic development.

The bill defines "alternative energy technology" to include, but 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, 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 the transmission of electricity (including advanced transmission lines), and environmental standards.

The bill creates the Center as a not-for-profit corporation, which must be registered, incorporated, organized, and operated in compliance with ch. 617, F.S. While the Center is not to be a unit or entity of state government, the Legislature determines that public policy dictates that it operate in an open and accessible manner. The Legislature declares that its board of director, tasks forces, advisory committees and similar advisory groups are subject to the public records provisions of ch. 119, F.S., and to the provisions of ch. 286, F.S. relating to public meetings and records.

The Center is to be the principal alternative energy technology organization for the state and is to provide leadership for research, development, and deployment of alternative energy technology in Florida. It is created as a not-for-profit corporation, and it 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 DEP, the Statewide Board of Governors of the State University System, the Public Service Commission (PSC), and

relevant businesses in the private sector. The approach must supplement and may not displace the energy initiatives of the DEP;

- 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 DEP and the private sector in determining the areas on which to focus alternative energy development or deployment projects;
- Promote the state as a location for businesses having operations related to alternative energy technologies in cooperation with Enterprise Florida, Inc., and the DEP;
- Assist universities, other state entities, and private companies in raising funds from all available public or private-sector sources for alternative energy technology projects;
- Collect and maintain information relating to: funding sources; alternative energy technology research, development, or deployment projects; and alternative energy technology businesses considering operations in Florida;
- Make policy recommendations to the Legislature, Governor, and state agencies and subdivisions.

Additionally, the Center may conduct research when the particular research is not or cannot be done by a state university or the DEP, and the Center may only conduct such projects using its own personnel and facilities, or in cooperation with universities, DEP, and/or private companies.

In performing these duties, the Center is required to ensure maximum benefit to the state and is required to act in the best interest of the state. As part thereof, the Center shall establish strategic priorities consistent with certain findings to guide funding allocations and ensure the best use of available resources.

The Center must establish one or more corporate offices, one of which must be located in Leon County.

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

- A representative from the DEP;
- The President of Enterprise Florida, Inc., or his or her designee;
- A representative from the State Board of Education, selected by the members of that board;
- A representative selected by the Florida investor-owned electric utilities with a term of two years;
- A representative selected by the Florida municipal electric utilities and rural electric cooperatives with a term of two years;
- 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 who can provide guidance as to locating and operating a business in this state with a term of two years;
- 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 who can provide guidance as to locating and operating a business in this state with a term of two years;
- A representative selected by the Governor from an environmental group who is informed about energy matters of the state with a term of two years.

When a board member's term has expired, a new member must be selected by the group that originally appointed the member. 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 directors constitutes a quorum, and the board may take official action by majority vote of the members 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 Section 112.3145, F.S.

The powers and duties of the board, including the following, are specified:

- Ability to enter into contracts;
- Sue and be sued;
- Adopt, use, and alter a corporate seal;
- Election or appointment of officers and agents and allow them reasonable compensation;
- Establish bylaws;
- Use of patents, copyrights, and trademarks;
- Use of state seal;
- Invest unspent funds;
- Procure insurance or required bonds;
- Create and dissolve advisory committees, task forces, or similar working groups;
- Solicit input from the public.

The bill provides that these powers should be liberally construed so that the Center may pursue its purpose.

The board of directors must appoint a corporate president and establish and adjust the president's compensation. The president serves as the chief administrative and operational officer of the board and of the corporation, and directs and supervises the administrative affairs of the board and each working group created by the board.

The bill requires distributions to be made to the corporation from the Florida Electric Energy Trust Fund under contract between the PSC and the corporation, including any funding directed by the Legislature. The Florida Electric Energy Trust Fund does not exist. It is also not clear, based on this language, what the PSC's role will be in this corporation.

The corporation's board of directors and officers are responsible for the prudent use of all funds the corporation controls and must ensure that such funds are used in accordance with applicable laws, bylaws, and contractual requirements. Employees of the corporation may not receive compensation which exceeds the salary of the Governor, unless the board and the employee have executed a contract that prescribes specific, measurable performance outcomes, the satisfaction of which provides the basis for incentive payments that increase the employee's total compensation to a level above the salary paid to the government.

The credit of the state may not be pledged on behalf of the corporation.

In addition to any indemnification available under ch. 617, F.S., the corporation 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 of each year, the corporation 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 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 use of alternative energy technology.

The bill appropriates \$500,000 from the General Revenue Fund to the Executive Office of the Governor for funding the activities of the Florida Alternative Energy Technology Center, Inc., for the 2005-2006 fiscal year.

This act shall take effect upon becoming law.

C. SECTION DIRECTORY:

Section 1 Creates the Florida Alternative Energy Technology Center, Inc.

Section 2 Provides for an appropriation of \$500,000 for the 2005-2006 fiscal year.

Section 3 This act shall take effect upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

On lines 239 through 243, the bill provides for a contractual agreement between the Center and the Public Service Commission (PSC) to distribute funds from the Florida Electric Energy Trust Fund. However, there is no specific authority in the bill creating the Florida Electric Energy Trust Fund.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

On lines 239 through 243, the bill provides for a contractual agreement between the Center and the Public Service Commission (PSC) to distribute funds from the Florida Electric Energy Trust Fund. However, there is no specific authority in the bill creating the Florida Electric Energy Trust Fund. In order to establish this fund as a new trust fund, Article III Section 19 of the state constitution provides that a separate bill is required to establish a new trust fund.

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

It is unclear of the exact role of the PSC. It may be helpful to clarify that the PSC's role is limited to that of transferring any funds deposited in the trust fund to the corporation.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**