

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

1 Representative(s) Littlefield offered the following:

2
3 **Amendment to Amendment (413029) (with title amendment)**

4 Remove lines 455-882 and insert:

5 220.187, those enumerated in s. 220.192, and those enumerated in
6 s. 220.193.

7 Section 12. Section 220.192, Florida Statutes, is created
8 to read:

9 220.192 Renewable energy technologies investment tax
10 credit.--

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

12 (a) "Biodiesel" means biodiesel as defined in s.
13 212.08(7)(ccc).

14 (b) "Eligible costs" means:

15 1. Seventy-five percent of all capital costs, operation
16 and maintenance costs, and research and development costs
17 incurred between July 1, 2006, and June 30, 2010, up to a limit
865635

5/3/2006 10:04:28 AM

Amendment No. (for drafter's use only)

18 of \$3 million per state fiscal year for all taxpayers, in
19 connection with an investment in hydrogen-powered vehicles and
20 hydrogen vehicle fueling stations in the state, including, but
21 not limited to, the costs of constructing, installing, and
22 equipping such technologies in the state.

23 2. Seventy-five percent of all capital costs, operation
24 and maintenance costs, and research and development costs
25 incurred between July 1, 2006, and June 30, 2010, up to a limit
26 of \$1.5 million per state fiscal year for all taxpayers, and
27 limited to a maximum of \$12,000 per fuel cell, in connection
28 with an investment in commercial stationary hydrogen fuel cells
29 in the state, including, but not limited to, the costs of
30 constructing, installing, and equipping such technologies in the
31 state.

32 3. Seventy-five percent of all capital costs, operation
33 and maintenance costs, and research and development costs
34 incurred between July 1, 2006, and June 30, 2010, up to a limit
35 of \$6.5 million per state fiscal year for all taxpayers, in
36 connection with an investment in the production, storage, and
37 distribution of biodiesel (B10-B100) and ethanol (E10-E100) in
38 the state, including the costs of constructing, installing, and
39 equipping such technologies in the state. Gasoline fueling
40 station pump retrofits for ethanol (E10-E100) distribution
41 qualify as an eligible cost under this subparagraph.

42 (c) "Ethanol" means ethanol as defined in s.
43 212.08(7)(ccc).

44 (d) "Hydrogen fuel cell" means hydrogen fuel cell as
45 defined in s. 212.08(7)(ccc).

865635

5/3/2006 10:04:28 AM

Amendment No. (for drafter's use only)

46 (2) TAX CREDIT.--For tax years beginning on or after
47 January 1, 2007, a credit against the tax imposed by this
48 chapter shall be granted in an amount equal to the eligible
49 costs. Credits may be used in tax years beginning January 1,
50 2007, and ending December 31, 2010, after which the credit shall
51 expire. If the credit is not fully used in any one tax year
52 because of insufficient tax liability on the part of the
53 corporation, the unused amount may be carried forward and used
54 in tax years beginning January 1, 2007, and ending December 31,
55 2012, after which the credit carryover expires and may not be
56 used. A taxpayer that files a consolidated return in this state
57 as a member of an affiliated group under s. 220.131(1) may be
58 allowed the credit on a consolidated return basis up to the
59 amount of tax imposed upon the consolidated group. Any eligible
60 cost for which a credit is claimed and which is deducted or
61 otherwise reduces federal taxable income shall be added back in
62 computing adjusted federal income under s. 220.13.

63 (3) CORPORATE APPLICATION PROCESS.--Any corporation
64 wishing to obtain tax credits available under this section must
65 submit to the Department of Environmental Protection an
66 application for tax credit that includes a complete description
67 of all eligible costs for which the corporation is seeking a
68 credit and a description of the total amount of credits sought.
69 The Department of Environmental Protection shall make a
70 determination on the eligibility of the applicant for the
71 credits sought and certify the determination to the applicant
72 and the Department of Revenue. The corporation must attach the
73 Department of Environmental Protection's certification to the
74 tax return on which the credit is claimed. The Department of

865635

5/3/2006 10:04:28 AM

Amendment No. (for drafter's use only)

75 Environmental Protection shall be responsible for ensuring that
76 the corporate income tax credits granted in each fiscal year do
77 not exceed the limits provided for in this section. The
78 Department of Environmental Protection is authorized to adopt
79 the necessary rules, guidelines, and application materials for
80 the application process.

81 (4) TAXPAYER APPLICATION PROCESS.--To claim a credit under
82 this section, each taxpayer must apply to the Department of
83 Environmental Protection for an allocation of each type of
84 annual credit by the date established by the Department of
85 Environmental Protection. The application form may be
86 established by the Department of Environmental Protection and
87 shall include an affidavit from each taxpayer certifying that
88 all information contained in the application, including all
89 records of eligible costs claimed as the basis for the tax
90 credit, are true and correct. Approval of the credits under this
91 section shall be accomplished on a first-come, first-served
92 basis, based upon the date complete applications are received by
93 the Department of Environmental Protection. A taxpayer shall
94 submit only one complete application based upon eligible costs
95 incurred within a particular state fiscal year. Incomplete
96 placeholder applications will not be accepted and will not
97 secure a place in the first-come, first-served application line.
98 If a taxpayer does not receive a tax credit allocation due to
99 the exhaustion of the annual tax credit authorizations, then
100 such taxpayer may reapply in the following year for those
101 eligible costs and will have priority over other applicants for
102 the allocation of credits.

865635

5/3/2006 10:04:28 AM

Amendment No. (for drafter's use only)

103 (5) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF
104 CREDITS.--

105 (a) In addition to its existing audit and investigation
106 authority, the Department of Revenue may perform any additional
107 financial and technical audits and investigations, including
108 examining the accounts, books, and records of the tax credit
109 applicant, that are necessary to verify the eligible costs
110 included in the tax credit return and to ensure compliance with
111 this section. The Department of Environmental Protection shall
112 provide technical assistance when requested by the Department of
113 Revenue on any technical audits or examinations performed
114 pursuant to this section.

115 (b) It is grounds for forfeiture of previously claimed and
116 received tax credits if the Department of Revenue determines, as
117 a result of either an audit or examination or from information
118 received from the Department of Environmental Protection, that a
119 taxpayer received tax credits pursuant to this section to which
120 the taxpayer was not entitled. The taxpayer is responsible for
121 returning forfeited tax credits to the Department of Revenue,
122 and such funds shall be paid into the General Revenue Fund of
123 the state.

124 (c) The Department of Environmental Protection may revoke
125 or modify any written decision granting eligibility for tax
126 credits under this section if it is discovered that the tax
127 credit applicant submitted any false statement, representation,
128 or certification in any application, record, report, plan, or
129 other document filed in an attempt to receive tax credits under
130 this section. The Department of Environmental Protection shall
131 immediately notify the Department of Revenue of any revoked or

865635

5/3/2006 10:04:28 AM

Amendment No. (for drafter's use only)

132 modified orders affecting previously granted tax credits.
133 Additionally, the taxpayer must notify the Department of Revenue
134 of any change in its tax credit claimed.

135 (d) The taxpayer shall file with the Department of Revenue
136 an amended return or such other report as the Department of
137 Revenue prescribes by rule and shall pay any required tax and
138 interest within 60 days after the taxpayer receives notification
139 from the Department of Environmental Protection that previously
140 approved tax credits have been revoked or modified. If the
141 revocation or modification order is contested, the taxpayer
142 shall file an amended return or other report as provided in this
143 paragraph within 60 days after a final order is issued following
144 proceedings.

145 (e) A notice of deficiency may be issued by the Department
146 of Revenue at any time within 3 years after the taxpayer
147 receives formal notification from the Department of
148 Environmental Protection that previously approved tax credits
149 have been revoked or modified. If a taxpayer fails to notify the
150 Department of Revenue of any changes to its tax credit claimed,
151 a notice of deficiency may be issued at any time.

152 (6) RULES.--The Department of Revenue shall have the
153 authority to adopt rules relating to the forms required to claim
154 a tax credit under this section, the requirements and basis for
155 establishing an entitlement to a credit, and the examination and
156 audit procedures required to administer this section.

157 (7) PUBLICATION.--The Department of Environmental
158 Protection shall determine and publish on a regular basis the
159 amount of available tax credits remaining in each fiscal year.

865635

5/3/2006 10:04:28 AM

Amendment No. (for drafter's use only)

160 Section 13. Section 220.193, Florida Statutes, is created
161 to read:

162 220.193 Florida renewable energy production credit.--

163 (1) The purpose of this section is to encourage the
164 development and expansion of facilities that produce renewable
165 energy in Florida.

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

167 (a) "Commission" shall mean the Public Service Commission.

168 (b) "Department" shall mean the Department of Revenue.

169 (c) "Expanded facility" shall mean a Florida renewable
170 energy facility that increases its electrical production and
171 sale by more than 5 percent above the facility's electrical
172 production and sale during the 2005 calendar year.

173 (d) "Florida renewable energy facility" shall mean a
174 facility in the state that produces electricity for sale from
175 renewable energy, as defined in s. 377.803.

176 (e) "New facility" shall mean a Florida renewable energy
177 facility that is operationally placed in service after May 1,
178 2006.

179 (3) An annual credit against the tax imposed by this
180 section shall be allowed to a taxpayer, based on the taxpayer's
181 production and sale of electricity from a new or expanded
182 Florida renewable energy facility. For a new facility, the
183 credit shall be based on the taxpayer's sale of the facility's
184 entire electrical production. For an expanded facility, the
185 credit shall be based on the increases in the facility's
186 electrical production that are achieved after May 1, 2006.

187 (a) The credit shall be \$0.01 for each kilowatt-hour of
188 electricity produced and sold by the taxpayer to an unrelated
865635

5/3/2006 10:04:28 AM

Amendment No. (for drafter's use only)

189 party during a given tax year.

190 (b) The credit may be claimed for electricity produced and
191 sold on or after January 1, 2007. Beginning in 2008 and
192 continuing until 2011, each taxpayer claiming a credit under
193 this section must first apply to the department by February 1 of
194 each year for an allocation of available credit. The department,
195 in consultation with the commission, shall develop an
196 application form. The application form shall, at a minimum,
197 require a sworn affidavit from each taxpayer certifying the
198 increase in production and sales that form the basis of the
199 application and certifying that all information contained in the
200 application is true and correct.

201 (c) If the amount of credits applied for each year exceeds
202 \$5 million, the department shall award to each applicant a
203 prorated amount based on each applicant's increased production
204 and sales and the increased production and sales of all
205 applicants.

206 (d) If the credit granted pursuant to this section is not
207 fully used in one year because of insufficient tax liability on
208 the part of the taxpayer, the unused amount may be carried
209 forward for a period not to exceed 5 years. The carryover credit
210 may be used in a subsequent year when the tax imposed by this
211 chapter for such year exceeds the credit for such year, after
212 applying the other credits and unused credit carryovers in the
213 order provided in s. 220.02(8).

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

865635

5/3/2006 10:04:28 AM

Amendment No. (for drafter's use only)

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

222 2. The entity or its surviving or acquiring entity as
223 described in subparagraph 1. may transfer any unused credit in
224 whole or in units of no less than 25 percent of the remaining
225 credit. The entity acquiring such credit may use it in the same
226 manner and with the same limitations under this section. Such
227 transferred credits may not be transferred again although they
228 may succeed to a surviving or acquiring entity subject to the
229 same conditions and limitations as described in this section.

230 3. In the event the credit provided for under this section
231 is reduced as a result of an examination or audit by the
232 department, such tax deficiency shall be recovered from the
233 first entity or the surviving or acquiring entity to have
234 claimed such credit up to the amount of credit taken. Any
235 subsequent deficiencies shall be assessed against any entity
236 acquiring and claiming such credit, or in the case of multiple
237 succeeding entities in the order of credit succession.

238 (g) Notwithstanding any other provision of this section,
239 credits for the production and sale of electricity from a new or
240 expanded Florida renewable energy facility may be earned between
241 January 1, 2007 and June 30, 2010. The combined total amount of
242 tax credits which may be granted for all taxpayers under this
243 section is limited to \$5 million per state fiscal year.

244 (h) A taxpayer claiming a credit under this section shall
245 be required to add back to net income that portion of its
246 business deductions claimed on its federal return paid or

865635

5/3/2006 10:04:28 AM

Amendment No. (for drafter's use only)

247 incurred for the taxable year which is equal to the amount of
248 the credit allowable for the taxable year under this section.

249 (i) A taxpayer claiming credit under this section may not
250 claim a credit under s. 220.192. A taxpayer claiming credit
251 under s. 220.192 may not claim a credit under this section.

252 (4) The department may adopt rules to implement and
253 administer this section, including rules prescribing forms, the
254 documentation needed to substantiate a claim for the tax credit,
255 and the specific procedures and guidelines for claiming the
256 credit.

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

259 Section 14. Paragraph (a) of subsection (1) of section
260 220.13, Florida Statutes, is amended to read:

261 220.13 "Adjusted federal income" defined.--

262 (1) The term "adjusted federal income" means an amount
263 equal to the taxpayer's taxable income as defined in subsection
264 (2), or such taxable income of more than one taxpayer as
265 provided in s. 220.131, for the taxable year, adjusted as
266 follows:

267 (a) Additions.--There shall be added to such taxable
268 income:

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

274 2. The amount of interest which is excluded from taxable
275 income under s. 103(a) of the Internal Revenue Code or any other
865635

5/3/2006 10:04:28 AM

Amendment No. (for drafter's use only)

276 federal law, less the associated expenses disallowed in the
277 computation of taxable income under s. 265 of the Internal
278 Revenue Code or any other law, excluding 60 percent of any
279 amounts included in alternative minimum taxable income, as
280 defined in s. 55(b)(2) of the Internal Revenue Code, if the
281 taxpayer pays tax under s. 220.11(3).

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

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

290 5. That portion of the ad valorem school taxes paid or
291 incurred for the taxable year which is equal to the amount of
292 the credit allowable for the taxable year under s. 220.182. The
293 provisions of this subparagraph shall expire and be void on June
294 30, 2005.

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

299 7. That portion of assessments to fund a guaranty
300 association incurred for the taxable year which is equal to the
301 amount of the credit allowable for the taxable year.

302 8. In the case of a nonprofit corporation which holds a
303 pari-mutuel permit and which is exempt from federal income tax
304 as a farmers' cooperative, an amount equal to the excess of the
865635

5/3/2006 10:04:28 AM

Amendment No. (for drafter's use only)

305 gross income attributable to the pari-mutuel operations over the
306 attributable expenses for the taxable year.

307 9. The amount taken as a credit for the taxable year under
308 s. 220.1895.

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

312 11. The amount taken as a credit for the taxable year
313 under s. 220.187.

314 12. The amount taken as a credit for the taxable year
315 under s. 220.192.

316 13. The amount taken as a credit for the taxable year
317 under s. 220.193.

318 Section 15. Subsection (2) of section 186.801, Florida
319 Statutes, is amended to read:

320 186.801 Ten-year site plans.--

321 (2) Within 9 months after the receipt of the proposed
322 plan, the commission shall make a preliminary study of such plan
323 and classify it as "suitable" or "unsuitable." The commission
324 may suggest alternatives to the plan. All findings of the
325 commission shall be made available to the Department of
326 Environmental Protection for its consideration at any subsequent
327 electrical power plant site certification proceedings. It is
328 recognized that 10-year site plans submitted by an electric
329 utility are tentative information for planning purposes only and
330 may be amended at any time at the discretion of the utility upon
331 written notification to the commission. A complete application
332 for certification of an electrical power plant site under
333 chapter 403, when such site is not designated in the current 10-
865635

5/3/2006 10:04:28 AM

Amendment No. (for drafter's use only)

334 year site plan of the applicant, shall constitute an amendment
335 to the 10-year site plan. In its preliminary study of each 10-
336 year site plan, the commission shall consider such plan as a
337 planning document and shall review:

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

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

341 (c)~~(b)~~ The anticipated environmental impact of each
342 proposed electrical power plant site.

343 (d)~~(e)~~ Possible alternatives to the proposed plan.

344 (e)~~(d)~~ The views of appropriate local, state, and federal
345 agencies, including the views of the appropriate water
346 management district as to the availability of water and its
347 recommendation as to the use by the proposed plant of salt water
348 or fresh water for cooling purposes.

349 (f)~~(e)~~ The extent to which the plan is consistent with the
350 state comprehensive plan.

351 (g)~~(f)~~ The plan with respect to the information of the
352 state on energy availability and consumption.

353 Section 16. Subsection (6) of section 366.04, Florida
354 Statutes, is amended to read:

355 366.04 Jurisdiction of commission.--

356 (6) The commission shall further have exclusive
357 jurisdiction to prescribe and enforce safety standards for
358 transmission and distribution facilities of all public electric
359 utilities, cooperatives organized under the Rural Electric
360 Cooperative Law, and electric utilities owned and operated by
361 municipalities. In adopting safety standards, the commission
362 shall, at a minimum:

865635

5/3/2006 10:04:28 AM

Amendment No. (for drafter's use only)

363 (a) Adopt the 1984 edition of the National Electrical
364 Safety Code (ANSI C2) as initial standards; and

365 (b) Adopt, after review, any new edition of the National
366 Electrical Safety Code (ANSI C2).

367
368 The standards prescribed by the current 1984 edition of the
369 National Electrical Safety Code (ANSI C2) shall constitute
370 acceptable and adequate requirements for the protection of the
371 safety of the public, and compliance with the minimum
372 requirements of that code shall constitute good engineering
373 practice by the utilities. The administrative authority referred
374 to in the 1984 edition of the National Electrical Safety Code is
375 the commission. However, nothing herein shall be construed as
376 superseding, repealing, or amending the provisions of s.
377 403.523(1) and (10).

378 Section 17. Subsections (1) and (8) of section 366.05,
379 Florida Statutes, are amended to read:

380 366.05 Powers.--

381 (1) In the exercise of such jurisdiction, the commission
382 shall have power to prescribe fair and reasonable rates and
383 charges, classifications, standards of quality and measurements,
384 including the ability to adopt construction standards that
385 exceed the National Electrical Safety Code, for purposes of
386 ensuring the reliable provision of service, and service rules
387 and regulations to be observed by each public utility; to
388 require repairs, improvements, additions, replacements, and
389 extensions to the plant and equipment of any public utility when
390 reasonably necessary to promote the convenience and welfare of
391 the public and secure adequate service or facilities for those

865635

5/3/2006 10:04:28 AM

Amendment No. (for drafter's use only)

392 reasonably entitled thereto; to employ and fix the compensation
393 for such examiners and technical, legal, and clerical employees
394 as it deems necessary to carry out the provisions of this
395 chapter; and to adopt rules pursuant to ss. 120.536(1) and
396 120.54 to implement and enforce the provisions of this chapter.

397 (8) If the commission determines that there is probable
398 cause to believe that inadequacies exist with respect to the
399 energy grids developed by the electric utility industry,
400 including inadequacies in fuel diversity or fuel supply
401 reliability, it shall have the power, after proceedings as
402 provided by law, and after a finding that mutual benefits will
403 accrue to the electric utilities involved, to require
404 installation or repair of necessary facilities, including
405 generating plants and transmission facilities, with the costs to
406 be distributed in proportion to the benefits received, and to
407 take all necessary steps to ensure compliance. The electric
408 utilities involved in any action taken or orders issued pursuant
409 to this subsection shall have full power and authority,
410 notwithstanding any general or special laws to the contrary, to
411 jointly plan, finance, build, operate, or lease generating and
412 transmission facilities and shall be further authorized to
413 exercise the powers granted to corporations in chapter 361. This
414 subsection shall not supersede or control any provision of the
415 Florida Electrical Power Plant Siting Act, ss. 403.501-403.518.

416 Section 18. Section 366.92, Florida Statutes, is created
417 to read:

418 366.92 Florida renewable energy policy.--

419 (1) It is the intent of the Legislature to promote the
420 development of renewable energy; protect the economic viability

865635

5/3/2006 10:04:28 AM

Amendment No. (for drafter's use only)

421 of Florida's existing renewable energy facilities; diversify the
422 types of fuel used to generate electricity in Florida; lessen
423 Florida's dependence on natural gas and fuel oil for the
424 production of electricity; minimize the volatility of fuel
425 costs; encourage investment within the state; improve
426 environmental conditions; and at the same time, minimize the
427 costs of power supply to electric utilities and their customers.

428 (2) For the purposes of this section, "Florida renewable
429 energy resources" shall mean renewable energy, as defined in s.
430 377.803, that is produced in Florida.

431 (3) The commission may adopt appropriate goals for
432 increasing the use of existing, expanded, and new Florida
433 renewable energy resources. The commission may change the goals.
434 The commission may review and reestablish the goals at least

435
436

437 ===== T I T L E A M E N D M E N T =====

438 Remove line(s) 4328-4339 and insert:
439 amending s. 220.13, F.S.; providing additions to the
440 definition of "adjusted federal income"; amending s.
441 186.801, F.S.; revising the provisions of electric utility
442 10-year site plans to include the effect on fuel
443 diversity; amending s. 366.04, F.S.; revising the safety
444 standards for public utilities; amending s. 366.05, F.S.;
445 authorizing the Public Service Commission to adopt certain
446 construction standards and make certain determinations;
447 directing the commission to conduct a study and provide a
448 report by a certain date; creating s. 366.92, F.S.;

865635

5/3/2006 10:04:28 AM

Amendment No. (for drafter's use only)

449 | relating to the Florida renewable energy policy; providing
450 | intent; providing definitions; authorizing the Florida