

The Florida Senate
PROFESSIONAL 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: Communications and Public Utilities Committee

BILL: CS/SB 996

INTRODUCER: Communications & Public Utilities, Senator Bennett, and others

SUBJECT: Energy

DATE: March 29, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Fav/CS
2.			EP	
3.			GA	
4.			RC	
5.				
6.				

I. Summary:

The bill:

- creates the Florida Alternative Energy Development Corporation to promote development of alternative energy technologies in this state;
- creates the Alternative Energy Incentive Program, a research and economic development grant program to be operated by the Corporation,
- transfers to the Corporation existing authority for development of alternative and renewable energy, for making recommendations to the Legislature concerning energy policy, and for administering existing economic incentives for renewable energy,
- creates a Renewable Portfolio Standard requiring that 50 percent of all new electricity provided by a public utility be from renewable energy, as defined,
- creates the Florida Net Metering Conservation Act,
- requires the Department of Environmental Protection to develop greenhouse gas inventories,
- authorizes the Public Service Commission to review and approve or deny proposed sales and transfers of utility assets, including in the context of a proposed merger or acquisition of the utility,
- creates a refund of a portion of the sales tax on qualified alternative motor vehicle,
- revises the requirements relating to guaranteed energy-performance savings contracts.

The bill amends the following sections of the Florida Statutes: 377.703, 212.08, 213.053, 220.192, 377.803, 377.804, 377.806, 366.91, 366.02, and 366.04. The bill also creates the

following sections of the Florida Statutes 288.10894, 288.10895, 366.915, 366.925, 403.0874, and an un-designated section. Finally, the bill repeals section 377.901 of the Florida Statutes.

II. Present Situation:

In the 2006 Regular Session, the Legislature passed SB 888, ch. 2006-230, Laws of Florida. This was a broad energy bill, containing provisions that created the Florida Energy Commission and economic incentives for alternative energy, including the following.

- The Renewable Energy Technologies Grants Program, created within the Department of Environmental Protection to provide matching grants for demonstration, commercialization, research, and development projects relating to renewable technologies. The bill defines renewable energy technology as any technology that generates or utilizes a renewable energy resource, defined to include electrical, mechanical, or thermal energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen, biomass, solar energy, geothermal energy, wind energy, ocean energy, waste heat, or hydroelectric power. As a part of this program, DEP is to work with the Department of Agriculture and Consumer Services to coordinate grants for bioenergy projects.
- The period from 12:01 a.m., October 5 through midnight October 11, 2006, was designated a tax holiday for sales tax on a new energy-efficient product sold during that period and having a selling price of \$1,000 or less. The exemption is only for items purchased for personal use, and includes items like a dishwasher, clothes washer, air conditioner, ceiling fan, incandescent or florescent light bulb, dehumidifier, programmable thermostat, or refrigerator that meet certain criteria.
- A rebate program was created for purchasers of solar photovoltaic systems or solar thermal systems, including pool heaters. To be eligible, the systems must meet certain requirements. The maximum rebates are provided and vary depending on the type of system and its intended use.
- An exemption from sales tax was created for stated types of products relating to hydrogen-powered vehicles, commercial stationary hydrogen fuel cells, and materials used in distributing biodiesel and ethanol.
- An investment tax credit was created for costs related to investments in hydrogen-powered vehicles and hydrogen fueling stations; fuel cells; and biodiesel and ethanol.

III. Effect of Proposed Changes:

Sections 1-4 of the bill consolidate executive branch functions relating to development of alternative energy. They create a new entity for this purpose, create a new research and economic development grant program, delete existing authority in the Department of Environmental Protection in these matters, and repeal the statute creating the Florida Energy Commission.

Section 1 creates s. 288.10894, F.S., to create the Florida Alternative Energy Development Corporation. The section sets forth legislative findings that it is in the public interest to promote alternative energy technologies in this state because the state is overly dependent on foreign oil and alternative energy and energy conservation technologies have the potential to decrease this dependency, to minimize volatility of fuel cost, and to improve environmental conditions.

Additionally, in-state research, development, deployment, and use of these technologies can make the state a leader in new and innovative technologies and encourage investment and economic development in this state.

The bill creates the Florida Alternative Energy Development Corporation as a public corporation, with the stated intent that it constitutes an entrepreneurial public corporation organized to provide and promote the public welfare by administering the governmental function of promoting the development of alternative energy in Florida. The corporation is not governed by the corporations statutes and has only the powers given in this section. The corporation is subject to laws on administrative procedures (ch. 120, F.S.), public records and public meetings (ch. 119, F.S.), and public business (ch. 286, F.S.). Additionally, the corporation is a corporation primarily acting as an instrumentality of the state, within the meaning of the sovereign immunity statute (s. 768.28, F.S.).

The bill defines the term “alternative energy” for these purposes to include: biomass; agricultural products and byproducts; municipal solid waste, including landfill injection, landfill mining, and landfill gas; solar thermal and solar photovoltaic energy; geothermal; ocean energy, including wave or thermal; hydrogen fuel; fuel cells; energy conservation, including building, equipment, and appliance efficiency technologies; enhancements to the transmission of electricity, including advanced transmission lines; distributed generation; ethanol, biodiesel, and similar synthetic fuels; and technologies relating to impacts of pollutants and greenhouse gases.

The corporation is designated as the principal organization in the state for promotion of alternative energy technology. Its goals are to minimize dependence on foreign oil, with the maximum overall benefit to the State of Florida, and, where possible, to minimize the impact of greenhouse gases. It is to accomplish these goals by consolidating in-state resources and activities into a unified forum to better coordinate, facilitate, and fund research, development, deployment and use of alternative energy technologies. To make better use of limited resources, the corporation is to focus on projects with near-term, in-state benefits. Specifically, the corporation is to:

- Bring together existing resources by:
 - Assisting in the integration of state-government energy programs;
 - Developing an information exchange system, including:
 - ◇ creating a computer database, accessible by any interested person, by gathering and indexing all information on activities in the state of Florida related to alternative energy technology research, development, and deployment programs in universities, all levels of government agencies, and private industry. The database must include a current index and profile of all research activities, identified by alternative energy technology area, including a summary of the project, the amount and sources of funding, anticipated completion dates, or, in case of completed research, conclusions, recommendations, and applicability to state government and private sector functions.
 - ◇ developing an interactive electronic information point where interested persons can find information and connect with other interested persons.

- ◇ holding conferences to provide an additional information exchange and to educate the public.
- Administer state-funded grants and capital outlays, including developing an application program to determine awards of those grants and outlays, and assist interested persons in obtaining additional funding for alternative energy technology projects.
- Explore the problems faced by those developing technology in Florida and determine where the problems lie, i.e., in research, development, obtaining start-up capital and financing, or finding buyers for the technology, and then assisting in resolving these problems.
- In cooperation with Enterprise Florida, Inc., promote the state as a location for businesses having operations related to alternative energy technologies.
- Develop recommendations for legislation to establish a state energy policy. The corporation shall continually review the state energy policy and shall recommend to the Legislature any additional necessary changes or improvements. The recommendations of the corporation shall be based on the guiding principles of reliability, efficiency, affordability, and diversity, more specifically:
 - The state should have a reliable electric supply with adequate reserves.
 - The transmission and delivery of electricity should be reliable.
 - The generation, transmission, and delivery of electricity should be accomplished with the least detriment to the environment and public health.
 - The generation, transmission, and delivery of electricity should be accomplished compatibly with the goals for growth management.
 - Electricity generation, transmission, and delivery facilities should be reasonably secure from damage, taking all factors into consideration, and recovery from damage should be prompt.
 - Electric rates should be affordable, as to base rates and all recovery-clause additions, with sufficient incentives for utilities to achieve this goal.
 - The state should have a reliable supply of motor vehicle fuels, both under normal circumstances and during hurricanes and other emergency situations.
 - In-state research, development, and deployment of alternative energy technologies and alternative motor vehicle fuels should be encouraged.
 - When possible, the resources of the state should be used in achieving the goals enumerated in this subsection.
 - Consumers of energy should be encouraged and given incentives to be more efficient in their use of energy.

The bill provides specific intent that nothing in this section in any way change the powers, duties, and responsibilities of the Public Service Commission or the powers, duties, and responsibilities assigned by the Florida Electrical Power Plant Siting Act, ss. 403.501-403.518.

The corporation is to be governed by a board of directors consisting of the following members:

- The Governor or the Governor's designee,
- One director appointed by the President of the Florida Senate,
- One director appointed by the Speaker of the Florida House of Representatives,
- 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,
- The Commissioner of Agriculture or the Commissioner's designee,
- The Chairperson of the Public Service Commission, and
- For one-term only, the Chairman of the Florida Energy Commission and one other member of that Commission, to be selected by that Commission.

The board may add additional board members selected by a consensus of all existing members of the governing board to assist the corporation in carrying out its functions and duties.

The Governor is to serve as chairperson of the board. The board of directors must meet at least once each year, upon the call of the chairperson, at the request of the vice chairman, 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 may be reimbursed for all reasonable, necessary, and actual expenses, as determined by the board. Each member of the board of directors who is not otherwise required to file a financial disclosure is required to do so.

The corporation's board of directors must appoint a corporate president and establish and adjust the president's compensation. The president is the chief administrative and operational officer of the board of directors and of the corporation, and is to direct and supervise other employees in accomplishing the goals and tasks set forth above. State officers, agencies, departments, boards, and commissions may provide services to the corporation within their respective functions as may be requested by the corporation. Upon request of the corporation, the Governor is hereby authorized to temporarily transfer to the corporation such officers and employees that may be deemed necessary from time to time to assist the corporation in carrying out its functions and duties under this act. Officers and employees so transferred shall not lose their career service, select exempt, or senior management status or rights.

The corporation is to receive its state funding through the Florida Alternative Energy Development Corporation Trust Fund pursuant to general law. All of the members of the board of directors, the officers, and the employees of the corporation are responsible for the prudent use of all public and private funds within the corporation's control and must ensure that the use of such funds is in accordance with applicable laws, bylaws, and contractual requirements. In performing all of its functions, the corporation must take all possible steps to ensure the maximum benefit to the state.

By December 31 each year, the corporation must submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, containing:

- A detailed description of the corporation's activities and accomplishments for the year.
- A certified audit by an independent public accountant of resources and expenditures prepared by an independent certified public accountant.

- A statement of the corporation's strategic priorities and an explanation of their use in guiding resource allocations.

Section 2 of the bill creates s. 288.10895, F.S., to create the Alternative Energy Incentive Program, a research and economic development grant program to be operated by the Corporation. The specific purpose of the program is to encourage economic development and research and development in Florida that will commercialize alternative energy innovations, and develop new alternative energy manufacturing, blending, power generation, and distribution facilities.

Section 2 creates the following definitions for purposes of this grant program.

- "Alternative energy" means electrical, mechanical, or thermal energy produced from a method that uses one or more of the following fuels or energy sources: ethanol, biodiesel, biomass, biogas, waste heat, fuel cells, hydrogen, solar, hydro, wind, and geothermal.
- "Average private sector wage" means the statewide average wage in the private sector or the average of all private sector wages in the county or in the standard metropolitan area in which the project is located as determined by the Agency for Workforce Innovation.
- "Corporation" means the Florida Alternative Energy Development Corporation.
- "Jobs" means full-time equivalent positions, as that term is consistent with terms used by the Agency for Workforce Innovation and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation, resulting directly from a project in this state. The term does not include temporary construction jobs.
- "Match" or "matching funds" means actual cash outlays contributed, including, but not limited to, cash outlays for wages, rental expenses, travel expenses, unrecovered indirect costs, and purchases of material and supplies, as a direct benefit to the project; or non-cash contributions necessary and reasonable for proper and efficient accomplishment of project objectives. The value of non-cash contributions shall be established using the following guidelines:
 - Rates for donated or volunteer services of any person must be consistent with their regular rate of pay, or the rate of pay of those paid for similar work at a similar level of experience in the labor market, including the value of fringe benefits.
 - The value of donated expendable property such as office supplies or workshop supplies must not exceed the fair market value of the property.
 - The value of donated real property such as land must not exceed the fair market value of the property.
 - Donated space must be valued at fair rental value of comparable space and facilities in a privately-owned building in the same locale.
 - The value of loaned equipment can not exceed its fair rental value.
 - Rates for donated travel expense must be valued at the approved state rate as defined in s. 112.061.
- "President" means the president of the Florida Alternative Energy Development Corporation.

The bill provides the following definitions.

- “Business project” is the location to or expansion in this state of a business that manufactures, blends or distributes alternative energy, generates power for sale in this state from an alternative energy source, or develops new or expanded infrastructure in this state for the commercialization or distribution of alternative energy.
- “Research and development project” as basic and applied research conducted in this state in the sciences or engineering that relates to the development, manufacturing, blending, or use of new and existing alternative energy technologies. The term does not include market research, routine consumer product testing, sales research, research in the social sciences or psychology, non-technological activities, or technical services.

To qualify for consideration under the grant program, a business project or research and development project must, at a minimum, establish to the satisfaction of the corporation the following criteria.

- The project is located in this state.
- The jobs created by the project pay an estimated annual average wage that equals at least 130 percent of the average private sector wage. The average wage requirement may be waived if the corporation determines that the merits of the individual project or the specific circumstances warrant such action.
- The project must include matching funds provided by the applicant, the local community, in the case of a research and development project, a public or private university or research institution, or by other available sources. The match requirement may be waived if the corporation determines that the merits of the individual project or the specific circumstances warrant such action.

A business project also must meet one of the following criteria:

- Results in the creation of at least 20 direct, new jobs at the business,
- Has an activity or product that uses feedstock or other raw materials grown or produced in this state, or
- Has a cumulative investment of at least \$50 million within a 5-year period.

A research and development project must also meet the following criteria.

- The research and development project must include a plan for significant collaboration with a higher education institution in the state of Florida; and
- The research and development project must include a plan for the commercialization of the research through direct use by the applicant in this state or the transfer or licensing of new technology to Florida based businesses that produce alternative energy for use or sale within the state of Florida.

A grant application must submit a written application to the corporation before making a decision to locate new operations in this state or expand an existing operation in this state. The application must include, but not be limited to:

- The applicant's federal employer identification number, unemployment account number, state sales tax registration number or related documentation. If such numbers are not available at the time of application, they must be submitted to the corporation in writing prior to the disbursement of any payments under this section.
- The location in this state at which the business project or the research and development project is located or is to be located.
- A description of the type of business activity, product, or research and development undertaken by the applicant, including six-digit North American Industry Classification System codes for all activities included in the project.
- The applicant's projected investment in the business project or the research and development project.
- The total investment, from all sources, in the business project or the research and development project.
- The number of net new full-time equivalent jobs in this state the applicant anticipates having created as of December 31 of each year in the business project or the research and development project and the average annual wage of such jobs.
- The total number of full-time equivalent employees currently employed by the applicant in this state, if applicable.
- The anticipated commencement date of the business project or the research and development project.
- A detailed explanation of why Alternative Energy Incentive Program funding is needed to induce the applicant to expand or locate in the state and whether an award would cause the applicant to locate or expand in this state.
- If applicable, an estimate of the proportion of the revenues resulting from the business project or the research and development project that will be generated outside this state.
- A recommendation for specific performance criteria the applicant would be expected to achieve in order to receive payments from the fund and penalties or sanctions for failure to meet or maintain performance conditions.
- The potential for the business project or the research and development project to stimulate additional investment and employment opportunities that equal or exceed 130% of the average private sector wage.
- Applications for a research and development project must also include:
 - A description of the extent to which the research and development project is likely to develop a new, emerging or evolving alternative energy.
 - A description of the extent to which the research and development project has or could have a significant collaborative research and development relationship with one or more universities or community colleges in this state.
 - A description of the extent to which the research and development project will be used by the applicant within this state or transferred or licensed to Florida-based businesses.

The corporation may negotiate the proposed amount of an award for any applicant meeting the requirements of this section, taking into consideration the amount of the incentive needed to cause the applicant to locate or expand in this state and any other relevant applicant impact and cost information. After completing the evaluation, the president is to recommend to the Governor

the approval or disapproval of an award, including in any approval any proposed performance conditions that the applicant must meet in order to obtain incentive funds and any other conditions that must be met before the receipt of any incentive funds. The Governor must consult with the President of the Senate and the Speaker of the House of Representatives before giving approval for an award. Upon approval of an award, the Executive Office of the Governor is to release the funds.

Upon approval by the Governor and release of the funds, the president is to issue a letter certifying the applicant as qualified for an award, and the corporation and the applicant must enter into an agreement setting forth the conditions for payment of grant funds, including, but not limited to, the total amount of funds awarded, the performance conditions that must be met to obtain the award or portions of the award, the methodology for validating performance, the schedule of payments, and sanctions for failure to meet performance conditions, including any clawback provisions.

The corporation must validate the performance of projects that have received a grant award at the conclusion of the grant award agreement, or its earlier termination. The corporation must, within 90 days, report the results of the grant award to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 3 amends s. 377.703, F.S., to delete current authority for the Department of Environmental Protection to promote research and development of energy, plan for development of renewable energy resources, and create a state clearinghouse for gathering and indexing all information related to energy research in this state.

Section 4 repeals s. 377.901, F.S., which creates and provides for operations of the Florida Energy Commission. The Energy Commission is charged with conducting studies and developing recommendations for legislation to establish a state energy policy.

Sections 5-12 of the bill provide for transfer of the administration of the economic incentives created in 2006 to the Florida Alternative Energy Development Corporation, and make slight revisions to some incentives as noted below. Sections making revisions to existing incentives that are not related to the transfer of administration take effect July 1, 2007. Provisions transferring administrative authority take effect July 1, 2008, to allow administration by existing entities prior to the corporation becoming fully operative.

Section 5 amends paragraph 212.08(7)(ccc), F.S., and adds a new subsection to that section. The bill increases the cap on the amount of sales tax exemptions per state fiscal year for sales tax on materials used in the distribution of biodiesel and ethanol to \$2 million, up from the current limit of \$1 million. The bill also codifies a provision on a sales tax holiday for energy efficient products, to make the tax holiday permanent and avoid the need for annual legislation. The bill provides that in October of each year, sales tax would not be collected during the 14 day period beginning at 12:01 a.m., on the first Saturday, on the sale of a new energy-efficient product having a selling price of \$1,500 or less per product during that period. The exemption would apply only when the energy-efficient product is purchased for noncommercial home or personal use, not when the product is purchased for trade, business, or resale. As used in this section, the term "energy-efficient product" means a dishwasher, clothes washer, air conditioner, ceiling fan,

compact florescent light bulb, dehumidifier, programmable thermostat, or refrigerator that has been designated by the United States Environmental Protection Agency or by the United States Department of Energy as meeting or exceeding the requirements under the Energy Star Program of either agency. Purchases made under this subsection may not be made using a business or company credit or debit card or check. Any construction company, building contractor, or commercial business or entity that purchases or attempts to purchase the energy-efficient products as exempt under this section commits an unfair method of competition in violation of s. 501.204, punishable as provided in s. 501.2075. The bill authorizes the Department of Revenue (DEP) to adopt rules to administer this new subsection.

Section 6 amends paragraph 212.08(7)(ccc), F.S., to transfer administration of the application for the sales tax refunds from the DEP to the Florida Alternative Energy Development Corporation (Corporation).

Section 7 amends s. 213.053, F.S., to authorize the Department of Revenue to share information with the Corporation relating to the sales tax refunds and exemptions and the corporate tax credit.

Section 8 amends s. 220.192(1), F.S., to increase the yearly limit on the total amount of corporate income tax credits available to all taxpayers for costs incurred in connection with an investment in production, storage, and distribution of biodiesel or ethanol from \$6.5 million to \$13 million.

Section 9 amends s. 220.192, F.S., to transfer of the administration of the application for the credits from DEP to the Corporation.

Section 10 amends s. 377.803, F.S., to revise definitions used in the Florida Renewable Energy Technologies and Energy Act to prepare to transfer administration of the Renewable Energy Technologies Grants Program from DEP to the Corporation.

Section 11 amends s. 377.804, F.S., to make this transfer. The transfer includes the biofuels grants currently administered by DEP in consultation with the Department of Agriculture and Consumer Services.

Section 12 amends s. 377.806, F.S., to transfer administration of the Solar Energy System Incentives Program from DEP to the Corporation. It also provides that the rebate is payable only to the end user of an eligible system and that rebates are limited to one per type of system per resident per fiscal year.

Sections 13-16 create new incentives for use of renewable energy in generating electricity.

Section 13 creates s. 366.915, F.S., to create a Renewable Portfolio Standard establishing a requirement that public utilities purchase a stated amount renewable energy. The bill states that it is in the public's interest to do so for the following purposes:

- Encourage investment in renewable energy resources to expand environmentally sustainable methods of generating electricity.
- Stimulate the economic growth of this state.

- Enhance the continued diversification of the fuel sources for electricity used in the state.

The bill creates the following definitions for purposes of this standard:

- “Biomass” means a power source that is comprised of, but not limited to, combustible residues or gases from forest products manufacturing, agricultural and orchard crops, waste products from livestock and poultry operations and food processing, urban wood waste, municipal solid waste, municipal liquid waste treatment operations, and landfill gas.
- “Renewable energy” means electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term also includes energy efficiency resources such as waste heat from sulfuric acid manufacturing operations and combined heat and power. It also includes nuclear and coal fuel when coal is used in a facility with potential carbon dioxide capturing technology.

The bill requires each public utility to ensure that by 2015 and for each year thereafter, at least fifty percent of all new net energy for load, using 2006 as a base year, derives from renewable energy produced in Florida. If a public utility must procure renewable energy to satisfy the requirements of this section, the public utility must use a competitive procurement process, give priority to entities that produce renewable energy in Florida, and utilize sources of renewable energy that are not related to or affiliated with the public utility, except when and only to the extent that such entities collectively cannot produce enough renewable energy to satisfy the requirements of this section.

The bill authorizes the Public Service Commission (PSC) to adopt rules to ensure that the procurement of renewable energy by public utilities is conducted in a fair and impartial manner, consistent with the goals set forth in this section. The PSC also may develop an accreditation process to ensure that any entities providing renewable energy in Florida satisfy the goals of this section.

Section 14 amends s. 366.91, F.S., to conform the definition of “renewable energy” in the context of a public utility renewable energy purchase contract as these contracts likely will be used to acquire some of the energy required by the Renewable Portfolio Standard.

Section 15 amends s. 366.02, F.S., to create a definition of “net metering program,” defining the term as a program under which an electric utility buys back energy produced by a customer who uses one or more renewable energy systems and produces more energy than he or she uses.

Section 16 creates s. 366.925, F.S., the “Florida Net Metering Conservation Act,” to require the PSC to develop rules requiring all public utilities to develop net metering programs under which they make available to customers meters that measure both energy production and consumption by the customer. The customer is to receive credit at the full retail rate for energy generated by eligible systems. If the customer’s system generates more energy than the customer consumes during a billing cycle, the utility must pay the customer for the excess generation at its full avoided cost, as set forth in s. 366.051. The PSC must also develop rules setting the

interconnection requirements and other standards renewable energy systems must meet to ensure public safety and reliability for customers to be eligible to participate in the net metering program.

Section 17 requires that every wholesaler of diesel to a marina within this state must offer biodiesel for sale.

Section 18 creates s. 403.0874, F.S., to require DEP to develop greenhouse gas inventories that account for annual greenhouse gases emitted to and removed from the atmosphere, and forecast gases emitted and removed, for all major greenhouse gases, for time periods determined sufficient by the department to provide for adequate analysis and planning. The DEP is to define, by rule, what greenhouse gases are to be included in each inventory, the criteria for defining major emitters, which emitters must report emissions, and what methodologies shall be used to estimate gases emitted and removed from those not required to report. The department is authorized to require all major emitters of defined greenhouse gases to report emissions according to methodologies and reporting systems approved by the department and established by rule, which may include the use of quality-assured data from continuous emissions monitoring systems.

Section 19 amends s. 366.04, F.S, to authorize the PSC to review and to approve or deny proposed sales and transfers of utility assets, including in the context of a proposed merger or acquisition of the utility. The PSC is authorized to approve, deny, or condition mergers between a public utility and another entity. The term “assets” includes, but is not limited to, real assets, financial assets, construction work in progress, and allowances for funds used during construction. However, the commission may establish, by rule, minimum levels of value of asset transfer that shall be deemed immaterial because the amount involved would not adversely impact the utility and are therefore not subject to the provisions of this section. In the exercise of this jurisdiction, the commission has the following powers. In determining whether to allow a proposed sale, merger, or acquisition, the PSC is to determine whether the proposed transaction is in the public interest, and may consider whether the transaction will:

- Adversely affect the adequacy, efficiency, and reliability of electric service provided to the public utility’s end use customers;
- Result in increased cost of electric service provided to the public utility’s end use customers without offsetting benefits;
- Harm the financial condition of the public utility; and,
- Whether comparable economic savings can be achieved through other means, including no transaction, while avoiding the possible adverse consequences of the proposed transaction.

Section 20 creates s. 212.086, F.S., the “Energy Efficient Vehicle Sales Tax Refund Program.” The bill provides for a refund of a portion of the sales tax on qualified alternative motor vehicles, as defined by s. 30B of the internal Revenue Code of 1986, which includes hybrid vehicles, alternative fuel vehicles, fuel cell vehicles, and advanced lean burning technology vehicles. The amount of the sales tax refund is to be computed on the sales price up to a maximum of \$15,000. To obtain a refund, a purchaser of a qualified vehicle must file an application within 90 days after the purchase, and must include specified information. The Department of Revenue would

approve refunds up to the maximum amount appropriated “based on the date of filing an application,” apparently first come, first served. If funds are insufficient to pay all refunds in a fiscal year, unpaid refund requests may be processed the following year, with priority over new applications. A taxpayer who receives a refund for a hydrogen powered vehicle pursuant to s. 212.08(7)(ccc), F.S., would not be allowed a refund provided by this exemption.

Section 21 appropriates an unspecified sum of money from the General Revenue Fund to the Department of Revenue’s Administrative Trust Fund for the purpose of paying these sales tax refunds.

Section 22 amends s. 255.252, F.S., to require each state agency to identify and compile a list of all state-owned buildings in its inventory which would be suitable for consideration for a guaranteed energy-performance savings contract. The list would be submitted to the Department of Management Services, which would evaluate each agency’s listed facilities and develop an energy efficiency project schedule based on factors such as project magnitude, efficiency and effectiveness of energy conservation measures to be implemented, and other advantageous factors.

Section 23 amends s. 287.063, F.S., to provide that the payment term for a deferred-payment contract may not extend beyond the anticipated useful life of the equipment financed.

Section 24 amends s. 287.064, F.S., to provide that the repayment term for funds drawn under a master equipment financing agreement may not exceed 20 years for energy conservation measures, and that the payment term cannot extend beyond the anticipated useful life of the equipment financed.

Section 25 amends s. 489.145, F.S., to provide that a guaranteed energy performance savings contract may include allowable cost avoidance, the calculations for which include, but are not limited to, provable budgeted costs avoided and contained in a capital replacement plan and the current undepreciated value of replaced equipment subtracted from the replacement cost of the new equipment. Actual costs savings under a contract must meet or exceed the estimated cost savings provided in program approval. The Office of the Chief Financial Officer must review proposals for acquisition of energy conservation measures to ensure the most effective financing is being used. Finally, prior to entering into a guaranteed energy performance savings contract, a state agency must submit the proposed contract to the Chief Financial Officer for approval, and the proposed contract must contain specified information.

Section 26 appropriates, for the 2007-2008 fiscal year, the sum of \$500,000 from the General Revenue Fund to the Florida Alternative Energy Trust Fund for the purpose of funding the activities of the Florida Alternative Energy Technology Center for the 2007-2008 fiscal year.

Section 27 appropriates, for the 2007-2008 fiscal year, the sum of \$40,000,000 from the General Revenue Fund to the Florida Alternative Energy Trust Fund for purposes of funding the Alternative Energy Incentive Program.

Section 28 appropriates, for the 2007-2008 fiscal year, the sum of \$15,000,000 to the Florida Alternative Energy Trust Fund for the purpose of funding the Renewable Energy Technologies Grants program.

Section 29 appropriates, for the 2007-2008 fiscal year, the sum of \$2,500,000 from the General Revenue Fund to the Department of Environmental Protection for the purpose of funding commercial and consumer solar incentives authorized in s. 377.806, Florida Statutes.

Section 30 appropriates, for the 2007-2008 fiscal year, the sum of \$65,763 from the General Revenue Fund to the Department of Revenue for the purpose of administering the energy-efficient products sales tax holiday.

Section 31 provides that, except as otherwise provided, this act shall upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill provides \$55 million for grants for projects on research, development, and deployment of renewable energy technologies. It also requires that public utilities provide a minimum of 50 percent of new sources of electricity from renewable resources and make net metering available to their customers. These incentives should provide a significant increase in the development of renewable energy in Florida. The additional financial incentives should increase use of solar and energy-efficient technologies.

C. Government Sector Impact:

The bill makes the following appropriations for the 2007-2008 fiscal year:

- i. the sum of \$500,000 from the General Revenue Fund to the Florida Alternative Energy Trust Fund for the purpose of funding the activities of the Florida Alternative Energy Technology Center for the 2007-2008 fiscal year,
- ii. the sum of \$40,000,000 from the General Revenue Fund to the Florida Alternative Energy Trust Fund for purposes of funding the Alternative Energy Incentive Program,
- iii. the sum of \$15,000,000 to the Florida Alternative Energy Trust Fund for the purpose of funding the Renewable Energy Technologies Grants program,
- iv. the sum of \$2,500,000 from the General Revenue Fund to the Department of Environmental Protection for the purpose of funding commercial and consumer solar incentives, and
- v. the sum of \$65,763 from the General Revenue Fund to the Department of Revenue for the purpose of administering the energy-efficient products sales tax holiday.

The bill provides for a refund of sales tax or specified purchases. The appropriation to fund the refunds does not yet specify an amount. The impact cannot yet be determined, however, the Revenue Estimating Conference estimates the hybrid vehicle sales data as shown below.

State Impact	FY 2007-08	FY 2008-09	FY 2009-10
High	(\$30.8m)	(\$38.4m)	(\$42.8m)
Medium	(\$28.0 m)	(\$34.9m)	(\$38.9m)
Low	(\$25.2m)	(\$31.4m)	(\$35.0m)

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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