

By Senator Bennett

21-00432-08

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1 A bill to be entitled

2 An act relating to energy; creating s. 288.10894, F.S.;

3 creating the Florida Alternative Energy Center; providing

4 legislative findings; providing definitions; requiring

5 that the center comply with public-meetings and public-

6 records laws; providing for the organization, purpose, and

7 duties of the center; providing for the membership of the

8 board of directors of the center; requiring the disclosure

9 of financial interests by board members; requiring an

10 annual report; creating s. 288.10895, F.S.; creating the

11 Alternative Energy Incentive Program for the purpose of

12 encouraging economic development and research; providing

13 definitions; providing for the program to be operated by

14 the Florida Alternative Energy Center; providing the

15 qualification criteria for a business to receive an award

16 under the program; providing a grant-application process

17 and requirements for such application; providing for an

18 evaluation and award process; requiring that the center

19 validate the performance of projects funded under the

20 program; providing an effective date.

21

22 Be It Enacted by the Legislature of the State of Florida:

23

24 Section 1. Section 288.10894, Florida Statutes, is created

25 to read:

26 288.10894 Florida Alternative Energy Center; findings;

27 creation; membership; organization; purpose; duties; powers.--

28 (1) The Legislature finds that it is in the public interest

29 to promote alternative energy technologies in this state,

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30 including alternative fuels and technologies for electrical power
31 plants, electric motor vehicles, energy conservation, distributed
32 generation, advanced transmission methods, and the control of
33 pollution and greenhouse gases. Both Florida and the United
34 States are overly dependent on foreign oil for meeting the energy
35 needs of buildings and motor vehicles. Alternative energy and
36 energy-conservation technologies have the potential to decrease
37 this dependency, minimize the volatility of fuel costs, and
38 improve environmental conditions. In-state research, development,
39 deployment, and use of these technologies can make the state a
40 leader in new and innovative technologies and encourage
41 investment and economic development in this state.

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

43 (a) "Center" means the Florida Alternative Energy Center.

44 (b) "Alternative energy" means energy technologies that are
45 undeveloped or less than established in current markets. The term
46 includes, but is not limited to: biomass; agricultural products
47 and byproducts; municipal solid waste, including landfill
48 injection, landfill mining, and landfill gas; solar thermal and
49 solar photovoltaic energy; geothermal; ocean energy, including
50 wave or thermal; hydrogen fuel; fuel cells; energy conservation,
51 including building, equipment, and appliance efficiency
52 technologies; enhancements to the transmission of electricity,
53 including advanced transmission lines; distributed generation;
54 ethanol, biodiesel, and similar synthetic fuels; and technologies
55 relating to limiting pollutants and greenhouse gases.

56 (3) (a) There is created a public corporation and a public
57 body corporate and politic, to be known as the "Florida
58 Alternative Energy Center." It is the intent of the Legislature

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59 that the Florida Alternative Energy Center constitutes an
60 entrepreneurial public corporation organized to provide and
61 promote the public welfare by administering the governmental
62 function of promoting the development of alternative energy in
63 this state and that the corporation is not a department of the
64 executive branch of state government within the scope and meaning
65 of s. 6, Art. IV of the State Constitution, and is not
66 functionally located within any state agency or department.

67 (b) The corporation is constituted as a public
68 instrumentality, and the exercise by the corporation of the power
69 conferred by this section is deemed to be the performance of an
70 essential public function. The corporation constitutes an agency
71 for the purposes of s. 120.52. The corporation is subject to
72 chapter 119, subject to exceptions applicable to the corporation,
73 and to the provisions of chapter 286; however, the corporation
74 may provide notice of internal review committee meetings for
75 competitive proposals or procurement to applicants by mail or
76 facsimile rather than by means of publication. The corporation is
77 not governed by chapter 607, but by the provisions of this
78 section. If for any reason the establishment of the corporation
79 is deemed in violation of law, such provision is severable and
80 the remainder of this act remains in full force and effect.

81 (c) The corporation is a corporation primarily acting as an
82 instrumentality of the state, within the meaning of s. 768.28.

83 (4) The center is the principal organization in the state
84 for the promotion of alternative energy technology. Its goals are
85 to minimize dependence on foreign oil, with the maximum overall
86 benefit to the state, and, where possible, to minimize the
87 effects of greenhouse gases. The center shall accomplish these

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88 goals by consolidating in-state resources and activities into a
89 unified forum to better coordinate, facilitate, and fund
90 research, development, deployment, and use of alternative energy
91 technologies. In order to make better use of limited resources,
92 the center shall focus on projects having near-term, in-state
93 benefits. Additionally, in making decisions concerning research,
94 development, or deployment projects, and in awarding grants and
95 other outlays, the center shall determine which of the following
96 elements of product and market development to focus upon in order
97 to achieve the greatest benefit with respect to research and
98 manufacturing, in the wholesale and retail markets, and for
99 consumers. More specifically, the center shall:

100 (a) Bring together existing resources by:

101 1. Assisting in the integration of state-government energy
102 programs.

103 2. Developing an information exchange system, including:

104 a. Creating a computer database, accessible by any
105 interested person, by gathering and indexing all information
106 concerning activities in this state related to programs of
107 alternative energy technology research, development, and
108 deployment in universities, at all levels of government agencies,
109 and in private industry. The database must include a current
110 index and profile of all research activities, identified by
111 alternative energy technology area, including a summary of the
112 project, the amount and sources of funding, and anticipated
113 completion dates or, in case of completed research, the
114 conclusions, recommendations, and applicability of research to
115 state government and private-sector functions.

116 b. Developing an interactive electronic information point

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117 where interested persons can find information and connect with
118 other interested persons.

119 c. Holding conferences for the purpose of providing
120 additional information exchange and educating the public.

121 (b) Administer state-funded grants and capital outlay
122 programs, including developing an application program to
123 determine awards of those grants and outlays, and assist
124 interested persons in obtaining additional funding for
125 alternative energy technology projects.

126 (c) Explore the problems faced by persons developing
127 technology in this state and determine the problems, such as
128 problems in research, development, obtaining start-up capital and
129 financing, or finding buyers for the technology, and assist in
130 resolving these problems.

131 (d) In cooperation with Enterprise Florida, Inc., promote
132 the state as a location for businesses having operations related
133 to alternative energy technologies.

134 (e) Develop recommendations for legislation to establish a
135 state energy policy. The center shall continually review the
136 state energy policy and recommend to the Legislature any
137 additional necessary changes or improvements. The recommendations
138 of the center shall be based on the guiding principles of
139 reliability, efficiency, affordability, and diversity, and more
140 specifically on the following principles:

141 1. The state should have a reliable supply of electricity
142 and have adequate reserves.

143 2. The transmission and delivery of electricity should be
144 reliable.

145 3. The generation, transmission, and delivery of

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146 electricity should be accomplished with the least detriment to
147 the environment and public health.

148 4. The generation, transmission, and delivery of
149 electricity should be accomplished compatibly with the goals of
150 growth management.

151 5. Electricity generation, transmission, and delivery
152 facilities should be reasonably secure from damage, taking all
153 factors into consideration, and recovery from damage should be
154 prompt.

155 6. Electric rates should be affordable as to base rates and
156 all recovery-clause additions, and there should be sufficient
157 incentives for utilities to achieve this goal.

158 7. The state should have a reliable supply of motor vehicle
159 fuels under normal circumstances and during hurricanes and other
160 emergency situations.

161 8. In-state research, development, and deployment of
162 alternative energy technologies and alternative motor vehicle
163 fuels should be encouraged.

164 9. When possible, the resources of the state should be used
165 in achieving the goals enumerated in this subsection.

166 10. Consumers of energy should be encouraged and given
167 incentives to be more efficient in their use of energy.

168
169 It is the specific intent of the Legislature that this section
170 does not in any way change the powers, duties, and
171 responsibilities of the Public Service Commission or the powers,
172 duties, and responsibilities assigned by the Florida Electrical
173 Power Plant Siting Act, ss. 403.501-403.518.

174 (5) The center shall establish one or more corporate

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175 offices, at least one of which must be located in Leon County.

176 (6) The center shall be governed by a board of directors
177 consisting of the following members:

178 (a) The Governor or his or her designee.

179 (b) The Commissioner of Agriculture or his or her designee.

180 (c) The Chief Financial Officer or his or her designee.

181 (d) The Attorney General or his or her designee.

182 (e) A member appointed by the President of the Senate.

183 (f) A member appointed by the Speaker of the House of
184 Representatives.

185 (g) The chairman of the Florida Public Service Commission
186 or his or her designee.

187 (h) The president of Enterprise Florida, Inc., or his or
188 her designee.

189 (i) A representative from the State Board of Education,
190 selected by the members of that board.

191 (j) For one initial term, the current chairman of the
192 Florida Energy Commission and one other member of that commission
193 to be selected by the commission members.

194 (k) Any additional board members selected by a consensus of
195 all existing members of the governing board to assist the center
196 in carrying out its functions and duties under this section.

197 (7) A member's term of office may not exceed 4 years, and a
198 member may not serve more than two consecutive terms.

199 (8) The Governor shall serve as chairperson of the board.

200 The members of the board of directors must select a vice
201 chairperson biennially, upon selection of any new members. The
202 center's president shall keep a record of the proceedings of the
203 board of directors; act as custodian of all books, documents, and

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204 papers filed with the board of directors; and keep the minutes of
205 the board of directors.

206 (9) The board of directors must meet at least once each
207 year, upon the call of the chairperson, at the request of the
208 vice chairperson, or at the request of a majority of the
209 membership. A majority of the total number of all directors
210 constitutes a quorum. The board may take official action by a
211 majority vote of the members present at any meeting at which a
212 quorum is present.

213 (10) Members of the board of directors serve without
214 compensation, but members, the president, and staff may be
215 reimbursed for all reasonable, necessary, and actual expenses, as
216 determined by the board.

217 (11) Each member of the board of directors who is not
218 otherwise required to file a financial disclosure pursuant to s.
219 8, Art. II of the State Constitution or s. 112.3144 must file a
220 disclosure of financial interests pursuant to s. 112.3145.

221 (12) The center's board of directors must appoint a
222 corporate president and establish and adjust the president's
223 compensation. The president is the chief administrative and
224 operational officer of the board of directors and of the center,
225 and shall direct and supervise other employees in accomplishing
226 the goals and tasks set forth in this section.

227 (13) State officers, agencies, departments, boards, and
228 commissions may provide such services to the center within each
229 entity's respective functions as may be requested by the center.
230 Upon request of the center, the Governor may temporarily transfer
231 to the center any officers or employees as are considered
232 necessary from time to time in order to assist the center in

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233 carrying out its functions and duties under this section.
234 Officers and employees so transferred do not lose their career
235 service, select exempt, or senior management status or rights.

236 (14) The center shall receive funding from the state
237 through the Florida Alternative Energy Center Trust Fund pursuant
238 to general law. The board of directors, officers, and employees
239 of the center are responsible for the prudent use of all public
240 and private funds within the center's control and must ensure
241 that the use of such funds is in accordance with applicable laws,
242 bylaws, and contractual requirements. In performing all of its
243 functions, the center shall take all possible steps to ensure the
244 maximum benefit to the state. As part of its duties, the center
245 shall establish strategic priorities, consistent with this
246 section, to guide funding and resource allocations and ensure the
247 best use of available resources.

248 (15) By December 31 each year, the center must submit an
249 annual report to the Governor, the Commissioner of Agriculture,
250 the Chief Financial Officer, the Attorney General, the President
251 of the Senate, and the Speaker of the House of Representatives
252 containing:

253 (a) A detailed description of the center's activities and
254 accomplishments for the year.

255 (b) A certified audit by an independent public accountant
256 of resources and expenditures prepared by an independent
257 certified public accountant.

258 (c) A statement of the center's strategic priorities and an
259 explanation of their use in guiding resource allocations.

260 Section 2. Section 288.10895, Florida Statutes, is created
261 to read:

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- 262 288.10895 Alternative Energy Incentive Program.--
263 (1) PROGRAM CREATED.--The Alternative Energy Incentive
264 Program is created and shall be operated by the Florida
265 Alternative Energy Center. The program shall encourage economic
266 development and research and development in the state which will
267 commercialize alternative energy innovations and develop new
268 alternative energy manufacturing, blending, power generation, and
269 distribution facilities.
- 270 (2) DEFINITIONS.--As used in this section, the term:
271 (a) "Alternative energy" means electrical, mechanical, or
272 thermal energy produced from a method that uses one or more of
273 the following fuels or energy sources: ethanol, biodiesel,
274 biomass, biogas, waste heat, fuel cells, hydrogen, solar, hydro,
275 wind, or geothermal.
- 276 (b) "Average private-sector wage" means the statewide
277 average wage in the private sector or the average of all private-
278 sector wages in the county or in the standard metropolitan area
279 in which the project is located as determined by the Agency for
280 Workforce Innovation.
- 281 (c) "Center" means the Florida Alternative Energy Center.
282 (d) "Commission" means the Administration Commission, as
283 set forth in s. 14.202.
- 284 (e) "Jobs" means full-time equivalent positions, as that
285 term is consistent with terms used by the Agency for Workforce
286 Innovation and the United States Department of Labor for purposes
287 of unemployment compensation tax administration and employment
288 estimation, resulting directly from a project in this state. The
289 term does not include temporary construction jobs.
- 290 (f) "Match" or "matching funds" means actual cash outlays

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291 contributed, including, but not limited to, cash outlays for
292 wages, rental expenses, travel expenses, unrecovered indirect
293 costs, and purchases of material and supplies as a direct benefit
294 to the project, or noncash contributions necessary and reasonable
295 for proper and efficient accomplishment of project objectives.
296 The value of noncash contributions shall be established using the
297 following guidelines:

298 1. Rates for donated or volunteer services of any person
299 must be consistent with their regular rate of pay, or the rate of
300 pay of those paid for similar work at a similar level of
301 experience in the labor market, including the value of fringe
302 benefits.

303 2. The value of donated expendable property, such as office
304 supplies or workshop supplies, may not exceed the fair market
305 value of the property.

306 3. The value of donated real property, such as land, may
307 not exceed the fair market value of the property.

308 4. Donated space must be valued at fair rental value of
309 comparable space and facilities in a privately owned building in
310 the same locale.

311 5. The value of loaned equipment may not exceed its fair
312 rental value.

313 6. Rates for donated travel expense must be valued at the
314 approved state rate as defined in s. 112.061.

315 (g) "President" means the president of the Florida
316 Alternative Energy Center.

317 (3) ALTERNATIVE ENERGY BUSINESS PROJECT.--

318 (a) "Business project" means the location to or expansion
319 in this state of a business that grows, harvests, and processes

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320 feedstock or other raw materials used in the creation of
321 alternative energy; manufactures, blends, or distributes
322 alternative energy; generates power for sale in this state from
323 an alternative energy source; or develops new or expanded
324 infrastructure in this state for the commercialization or
325 distribution of alternative energy.

326 (b) In order to qualify for consideration under the
327 Alternative Energy Incentive Program, a business project must, at
328 a minimum, establish to the satisfaction of the center that:

329 1. The business project is located in this state;

330 2. The jobs created by the business project pay an
331 estimated annual average wage that equals at least 130 percent of
332 the average private-sector wage. The average wage requirement may
333 be waived if the center determines that the merits of the
334 individual project or the specific circumstances warrant such
335 action;

336 3. The business project includes matching funds provided by
337 the applicant, the local community, or other available sources.
338 The match requirement may be waived if the center determines that
339 the merits of the individual project or the specific
340 circumstances warrant such action; and

341 4. The business project meets one of the following
342 criteria:

343 a. Results in the creation of at least 20 direct, new jobs
344 at the business;

345 b. Consists of an activity that grows, harvests, and
346 processes feedstock or other raw materials in this state which
347 are used in the production of alternative energy or is an
348 activity or product that uses such feedstock or other raw

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349 materials grown or produced in this state;

350 c. Has a cumulative investment of at least \$50 million
351 within a 5-year period; or

352 d. Incorporates an innovative new technology or an
353 innovative application of an existing technology.

354 (4) ALTERNATIVE ENERGY RESEARCH AND DEVELOPMENT PROJECT.--

355 (a) "Research and development project" means basic and
356 applied research that is conducted in this state in the sciences
357 or engineering and that relates to the development,
358 manufacturing, blending, or use of new and existing alternative
359 energy technologies. A research and development project does not
360 include market research, routine consumer product testing, sales
361 research, research in the social sciences or psychology,
362 nontechnological activities, or technical services.

363 (b) In order to qualify for consideration under the
364 Alternative Energy Incentive Program, a research and development
365 project must, at a minimum, establish to the satisfaction of the
366 center that:

367 1. The research and development project will be located in
368 this state;

369 2. The jobs created by the research and development project
370 will pay an estimated annual average wage that equals at least
371 130 percent of the average private-sector wage. The average wage
372 requirement may be waived if the center determines that the
373 merits of the individual project or the specific circumstances
374 warrant such action;

375 3. The research and development project includes matching
376 funds provided by the applicant, a public or private university
377 or research institution, the local community, or other available

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378 sources. The match requirement may be waived if the center
379 determines that the merits of the individual project or the
380 specific circumstances warrant such action;

381 4. The research and development project includes a plan for
382 significant collaboration with an institution of higher education
383 in the state; and

384 5. The research and development project includes a plan for
385 the commercialization of the research through direct use by the
386 applicant in this state or the transfer or licensing of new
387 technology to Florida-based businesses that produce alternative
388 energy for use or sale within the state.

389 (5) APPLICATION REQUIREMENTS.--A business project or
390 research and development project applicant must submit a written
391 application to the center showing how the award would support the
392 location of new operations in this state or the expansion of an
393 existing operation in this state. The application must include,
394 but need not be limited to:

395 (a) The applicant's federal employer identification number,
396 unemployment account number, state sales tax registration number,
397 or related documentation. If such numbers are not available at
398 the time of application, the numbers must be submitted to the
399 center in writing before the disbursement of any payments under
400 this section.

401 (b) The location in this state at which the business
402 project or the research and development project is located or is
403 to be located.

404 (c) A description of the type of business activity,
405 product, or research and development undertaken by the applicant,
406 including six-digit North American Industry Classification System

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407 codes for all activities included in the project.

408 (d) The applicant's projected investment in the business
409 project or the research and development project.

410 (e) The total investment, from all sources, in the business
411 project or the research and development project.

412 (f) The number of net new full-time equivalent jobs in this
413 state the applicant anticipates having created as of December 31
414 of each year in the business project or the research and
415 development project and the average annual wage of such jobs.

416 (g) The total number of full-time equivalent employees
417 currently employed by the applicant in this state, if applicable.

418 (h) The anticipated commencement date of the business
419 project or the research and development project.

420 (i) A detailed explanation of why funding under the
421 Alternative Energy Incentive Program is needed to induce the
422 applicant to expand or locate in the state and whether an award
423 would cause the applicant to locate or expand in this state.

424 (j) If applicable, an estimate of the proportion of the
425 revenues resulting from the business project or the research and
426 development project which will be generated outside this state.

427 (k) A recommendation for specific performance criteria that
428 the applicant would be expected to achieve in order to receive
429 payments from the fund and penalties or sanctions for failure to
430 meet or maintain performance conditions.

431 (l) The potential for the business project or the research
432 and development project to stimulate additional investment and
433 employment opportunities that equal or exceed 130 percent of the
434 average private-sector wage.

435 (m) A description of the extent to which the research and

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436 development project:

437 1. Is likely to develop a new, emerging, or evolving form
438 of alternative energy.

439 2. Has or could have a significant collaborative research
440 and development relationship with one or more universities or
441 community colleges in this state.

442 3. Will be used by the applicant within this state or
443 transferred or licensed to Florida-based businesses.

444 (6) AWARD AMOUNT.--The center may negotiate the proposed
445 amount of an award for any applicant meeting the requirements of
446 this section. In negotiating such award, the center shall
447 consider the amount of the incentive needed to cause the
448 applicant to locate or expand in this state in conjunction with
449 other relevant effect and cost information and analysis as
450 described in this section.

451 (7) RECOMMENDATION.--After fully considering all of the
452 criteria identified in this section and completing the
453 evaluation, the president shall recommend to the commission the
454 approval or disapproval of an award. In recommending approval of
455 an award, the president shall include proposed performance
456 conditions that the applicant must meet in order to obtain
457 incentive funds and any other conditions that must be met before
458 the receipt of any incentive funds. The commission shall consult
459 with the President of the Senate and the Speaker of the House of
460 Representatives before giving approval for an award. Upon
461 approval of an award, the center shall release the funds pursuant
462 to the legislative consultation and review requirements set forth
463 in s. 216.177.

464 (8) CERTIFICATION.--Upon approval by the commission and

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465 release of the funds as set forth in subsection (7), the
466 president shall issue a letter certifying the applicant as
467 qualified for an award. The center and the applicant shall enter
468 into an agreement that sets forth the conditions for payment of
469 funds under the Alternative Energy Incentive Program, including,
470 but not limited to, the total amount of funds awarded, the
471 performance conditions that must be met in order to obtain the
472 award or portions of the award, the methodology for validating
473 performance, the schedule of payments, and sanctions for failure
474 to meet performance conditions, including any clawback
475 provisions.

476 (9) VALIDATION.--The center shall validate the performance
477 of business projects and research and development projects that
478 have received an award under the Alternative Energy Incentive
479 Program. At the conclusion of an award agreement, or its earlier
480 termination, the center shall, within 90 days, report the results
481 of the award under the Alternative Energy Incentive Program to
482 the members of the commission, the President of the Senate, and
483 the Speaker of the House of Representatives.

484 Section 3. This act shall take effect upon becoming a law.