

By the Committees on Finance and Tax; and Community Affairs; and
Senator Bennett

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1 A bill to be entitled
2 energy; creating s. 163.08, F.S.; providing for
3 supplemental authority to local governments regarding
4 improvements to real property; providing legislative
5 findings and intent; defining "local government,"
6 "qualifying improvement," "energy conservation and
7 efficiency improvement," "renewable-energy
8 improvement," and "wind-resistance improvement";
9 authorizing a local government to levy a non-ad
10 valorem assessment to fund a qualifying improvement;
11 authorizing a property owner to enter into a financing
12 agreement with a local government to finance a
13 qualifying improvement; authorizing a local government
14 to collect for such purpose through a non-ad valorem
15 assessment; providing exceptions; providing for
16 discontinuance of utility service under certain
17 circumstances if the financing agreement provides for
18 repayment through a utility bill; authorizing a local
19 government to enter into a partnership with one or
20 more local governments for the purpose of providing
21 and financing qualifying improvements; authorizing a
22 for-profit entity or a not-for-profit organization to
23 administer a qualifying improvement program on behalf
24 of and at the discretion of the local government;
25 authorizing a local government to incur debt payable
26 from revenues received from the improved property;
27 requiring that a local government verify past payment
28 delinquencies and involuntary liens on the property;
29 requiring that a qualifying improvement be affixed to

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30 a building or facility on the property and be
31 performed by a properly certified or registered
32 contractor; limiting the total amount of a non-ad
33 valorem assessment or a municipal or county lien;
34 providing exceptions; requiring that a property owner
35 provide certain parties with notice of intent to enter
36 into a financing agreement, the maximum principal
37 amount to be financed, and the maximum annual
38 assessment needed to repay that amount; prohibiting
39 acceleration of a mortgage under certain
40 circumstances; providing that certain provisions of
41 state law do not limit or prohibit any local
42 government from exercising certain authority;
43 providing for statutory construction regarding a local
44 government's home-rule authority; amending s. 366.92,
45 F.S.; revising legislative intent regarding the
46 state's renewable energy policy; deleting provisions
47 requiring that the Public Service Commission adopt
48 rules for a renewable portfolio standard; requiring
49 that the commission provide for full cost recovery,
50 including a return on equity, for certain renewable
51 energy projects; requiring excess customer-owned
52 renewable generation delivered to the provider's
53 electric grid to be credited to the customer's energy
54 consumption; requiring such energy credits produced to
55 accumulate and be used to offset the customer's energy
56 usage; requiring the provider to pay the customer for
57 any unused energy credits at an average annual rate;
58 requiring the commission to approve certain renewable

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59 energy projects; creating s. 366.921, F.S.; providing
60 legislative findings; requiring that a petition filed
61 by a provider for approval of a facility producing a
62 Florida renewable energy resource comply with certain
63 criteria; specifying the criteria to be considered by
64 the commission in approving a petition for such
65 facility; requiring that the commission's final order
66 approving a facility include authorization for annual
67 cost recovery; requiring providers to file a report
68 with commission; providing report requirements;
69 providing penalties for failure to file the report;
70 providing exemptions from determination-of-need
71 requirements; providing that certain legislative
72 determinations constitute a public need and necessity
73 and fulfill certain determination-of-need
74 requirements; providing for applicants meeting certain
75 criteria to obtain a final order of certification;
76 amending s. 403.503, F.S.; redefining the term
77 "electrical power plant" for purposes of the Florida
78 Electrical Power Plant Siting Act to exclude solar
79 electrical generating facilities; providing an
80 effective date.

81
82 Be It Enacted by the Legislature of the State of Florida:

83
84 Section 1. Section 163.08, Florida Statutes, is created to
85 read:

86 163.08 Supplemental authority regarding improvements to
87 real property.-

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88 (1) (a) The Legislature affirms its previous amendments to
89 the energy goal of the state comprehensive plan, which provided,
90 in part, that Florida shall reduce its energy requirements
91 through enhanced conservation and efficiency measures in all
92 end-use sectors and shall reduce atmospheric carbon dioxide by
93 promoting an increased use of renewable-energy resources. The
94 Legislature also affirms its previous declaration that it is the
95 public policy of this state to play a leading role in developing
96 and instituting energy management programs aimed at promoting
97 energy conservation, energy security, and reduction of
98 greenhouse gases. In addition to establishing policies to
99 promote the use of renewable energy, the Legislature finds that
100 it must continue to provide for a schedule of increases in
101 energy performance of buildings subject to the Florida Energy
102 Efficiency Code for Building Construction. The Legislature
103 further finds that it must continue to adopt new energy
104 conservation and greenhouse gas reduction comprehensive planning
105 requirements for local governments. The Legislature acknowledges
106 that in the General Election of 2008, the voters of this state
107 approved a constitutional amendment authorizing the Legislature,
108 by general law, to prohibit consideration of any change or
109 improvement made for the purpose of improving the property's
110 resistance to wind damage or the installation of a renewable-
111 energy-source device in the determination of the assessed value
112 of real property used for residential purposes.

113 (b) All energy-consuming improved properties not using
114 energy-conservation strategies contribute to the burden
115 affecting all improved property resulting from fossil fuel
116 energy production. Improved property that has been retrofitted

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117 with energy-related qualifying improvements receives the special
118 benefit of alleviating the property's burden from energy
119 consumption. All improved properties not protected from wind
120 damage by wind-resistance improvements contribute to the burden
121 affecting all improved property resulting from potential wind
122 damage. Improved property that has been retrofitted with wind-
123 resistance qualifying improvements receives the special benefit
124 of reducing the property's burden from potential wind damage.
125 Further, the installation and operation of qualifying
126 improvements not only benefit the affected properties for which
127 the improvements are made, but also assist in fulfilling the
128 goals of the state's energy and hurricane mitigation policies.
129 To make qualifying improvements more affordable and assist
130 property owners who wish to undertake them, there is a
131 compelling state interest in enabling property owners, on a
132 voluntary basis, to finance such improvements with local
133 government assistance.

134 (c) The Legislature finds that the actions authorized under
135 this section, including the financing therein of qualifying
136 improvements through the execution of financing agreements and
137 the related imposition of voluntary assessments or charges, are
138 reasonable and necessary to serve and achieve a compelling state
139 interest and for the prosperity and welfare of the state and its
140 property owners and inhabitants.

141 (2) For purposes of this section, the term:

142 (a) "Local government" means a county, a municipality, or a
143 special district.

144 (b) "Qualifying improvement" includes any of the following:

145 1. "Energy conservation and efficiency improvement," which

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146 means a measure to reduce consumption, through conservation or
147 more efficient use, of electricity, natural gas, propane, or
148 other forms of energy on the property, including, but not
149 limited to, air sealing, installation of insulation,
150 installation of energy-efficient heating, cooling, or
151 ventilation systems, building modifications to increase the use
152 of daylighting, replacement of windows, installation of energy
153 controls or energy-recovery systems, and installation of
154 efficient lighting equipment, provided that, to be covered by an
155 agreement with a property owner and financed under this section,
156 such improvement must be affixed to a building or facility that
157 is part of the property.

158 2. "Renewable-energy improvement," which means the
159 installation of any system whereby electrical, mechanical, or
160 thermal energy is produced from a method that uses one or more
161 of the following fuels or energy sources: hydrogen, solar
162 energy, geothermal energy, bioenergy, or wind energy.

163 3. "Wind-resistance improvement," which includes, but is
164 not limited to:

- 165 a. Improving the strength of the roof deck attachment;
166 b. Creating a secondary water barrier to prevent water
167 intrusion;
168 c. Installing wind-resistant shingles;
169 d. Installing gable-end bracing;
170 e. Reinforcing roof-to-wall connections;
171 f. Installing storm shutters; and
172 g. Installing opening protections.

173 (3) A local government may levy a non-ad valorem assessment
174 to fund a qualifying improvement.

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175 (4) Subject to local government ordinance or resolution, a
176 property owner may apply to the local government for funding to
177 finance a qualifying improvement and enter into a financing
178 agreement with the local government. Costs incurred by the local
179 government for such purpose may be collected as a non-ad valorem
180 assessment or a municipal or county lien, or may be collected
181 pursuant to any other lawful method.

182 (a) A non-ad valorem assessment shall be collected pursuant
183 s. 197.3632. However, the notice and adoption requirements of s.
184 197.3632(4) do not apply if the provisions of this section are
185 used and complied with, and the initial resolution, publication
186 of notice, and mailed notices to the property appraiser, tax
187 collector, and Department of Revenue required by s.
188 197.3632(3) (a) are provided on or before August 15 in
189 conjunction with any non-ad valorem assessment authorized by
190 this section if the property appraiser, tax collector, and local
191 government agree.

192 (b) If the financing agreement provides for repayment
193 through a surcharge on a utility or other municipal service bill
194 in the form of a municipal lien, the utility provider may
195 discontinue the delivery of all utility service if the surcharge
196 is not paid. However, the financing agreement must set forth the
197 terms and costs of such discontinuance, including the period
198 after which discontinuance will be imposed.

199 (5) Pursuant to this section, other applicable law, or its
200 home rule power, a local government may enter into a partnership
201 with one or more local governments for the purpose of providing
202 and financing qualifying improvements.

203 (6) A qualifying improvement program may be administered by

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204 a for-profit entity or a not-for-profit organization on behalf
205 of and at the discretion of the local government.

206 (7) A local government may incur debt for the purpose of
207 providing such improvements, payable from revenues received from
208 the improved property or any other available revenue source as
209 authorized by law.

210 (8) A local government may enter into a financing agreement
211 only with the owner of record of the affected property.

212 (9) Before entering into a financing agreement, the local
213 government shall reasonably verify that all property taxes and
214 any other assessments levied on the same bill as property taxes
215 have been paid and have not been delinquent for the past 3 years
216 or the property owner's period of ownership, whichever is less;
217 that there are no involuntary liens such as construction liens
218 on the property; that no notices of default or other evidence of
219 property-based debt delinquency have been recorded during the
220 past 3 years or the property owner's period of ownership,
221 whichever is less; and that the property owner is current on all
222 mortgage debt on the property.

223 (10) A qualifying improvement shall be affixed to a
224 building or facility that is part of the property and shall
225 constitute an improvement to the building or facility or a
226 fixture thereto. An agreement between a local government and a
227 qualifying property owner may not cover wind-resistance
228 improvements in buildings or facilities under new construction
229 or construction for which a certificate of occupancy or similar
230 evidence of substantial completion of new construction or
231 improvement has not been issued.

232 (11) Any work requiring a license under any applicable law

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233 to make a qualifying improvement shall be performed by a
234 contractor properly certified or registered pursuant to part I
235 or part II of chapter 489.

236 (12) Without the consent of the holders or loan servicers
237 of any mortgage encumbering or otherwise secured by the
238 property, the total amount of any non-ad valorem assessment or
239 municipal or county lien for a property under this section may
240 not exceed 20 percent of the just value of the property as
241 determined by the county property appraiser.

242 (a) Notwithstanding any other provision of law, a non-ad
243 valorem assessment or municipal or county lien for a qualifying
244 improvement defined in subparagraph (2)(b)1. or 2. which is
245 supported by an energy audit is not subject to the limits in
246 this subsection if the audit demonstrates that the annual energy
247 savings from the qualified improvement equals or exceeds the
248 annual repayment amount of the non-ad valorem assessment or
249 municipal or county lien.

250 (b) A local government may adopt alternate parameters to
251 those specified in this subsection to conform to local needs and
252 conditions after conducting a public hearing resulting in a
253 finding of the need for such changes due to local needs and
254 conditions.

255 (13) At least 30 days before entering into a financing
256 agreement, the property owner shall provide to the holders or
257 loan servicers of any existing mortgages encumbering or
258 otherwise secured by the property notice of intent to enter into
259 a financing agreement, together with the maximum principal
260 amount to be financed and the maximum annual assessment
261 necessary to repay such amount. A provision of any agreement

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262 between a mortgagee or other lienholder and a property owner or
263 otherwise now or hereafter binding upon a property owner
264 allowing for acceleration of payment of the mortgage, note, or
265 lien or other unilateral modification solely as a result of
266 entering into a financing agreement, as provided for in this
267 section, is not enforceable. This subsection does not limit the
268 authority of the holder or loan servicer to increase the
269 required monthly escrow by an amount necessary to annually pay
270 the qualifying improvement assessment.

271 (14) A provision of any agreement between a local
272 government and a public or private power or energy provider, or
273 other utility provider, may not limit or prohibit any local
274 government from exercising its authority under this section.

275 (15) This section shall be construed to be additional and
276 supplemental to county and municipal home-rule authority and not
277 in derogation thereof or a limitation thereon.

278 Section 2. Section 366.92, Florida Statutes, is amended to
279 read:

280 366.92 Florida renewable energy policy.—

281 (1) In order to stimulate the state's economy, encourage
282 businesses to invest in clean technologies, and foster research,
283 development, manufacturing, construction, and jobs in new and
284 renewable energy, it is the intent of the Legislature to promote
285 the development of renewable energy; protect the economic
286 viability of Florida's existing renewable energy facilities;
287 diversify the types of fuel used to generate electricity in
288 Florida; lessen Florida's dependence on natural gas and fuel oil
289 for the production of electricity; minimize the volatility of
290 fuel costs; encourage investment within the state; improve

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291 environmental conditions by minimizing water consumption and
292 reducing carbon and other greenhouse gas emissions emitted in
293 this state; and, at the same time, minimize the costs of power
294 supply to electric utilities and their customers.

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

296 (a) "Florida renewable energy resources" means renewable
297 energy, as defined in s. 377.803, that is produced in Florida.

298 (b) "Provider" means a "utility" as defined in s.
299 366.8255(1)(a).

300 (c) "Renewable energy" means renewable energy as defined in
301 s. 366.91(2)(d).

302 ~~(d) "Renewable energy credit" or "REC" means a product that~~
303 ~~represents the unbundled, separable, renewable attribute of~~
304 ~~renewable energy produced in Florida and is equivalent to 1~~
305 ~~megawatt-hour of electricity generated by a source of renewable~~
306 ~~energy located in Florida.~~

307 ~~(e) "Renewable portfolio standard" or "RPS" means the~~
308 ~~minimum percentage of total annual retail electricity sales by a~~
309 ~~provider to consumers in Florida that shall be supplied by~~
310 ~~renewable energy produced in Florida.~~

311 ~~(3) The commission shall adopt rules for a renewable~~
312 ~~portfolio standard requiring each provider to supply renewable~~
313 ~~energy to its customers directly, by procuring, or through~~
314 ~~renewable energy credits. In developing the RPS rule, the~~
315 ~~commission shall consult the Department of Environmental~~
316 ~~Protection and the Florida Energy and Climate Commission. The~~
317 ~~rule shall not be implemented until ratified by the Legislature.~~
318 ~~The commission shall present a draft rule for legislative~~
319 ~~consideration by February 1, 2009.~~

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320 ~~(a) In developing the rule, the commission shall evaluate~~
321 ~~the current and forecasted levelized cost in cents per kilowatt~~
322 ~~hour through 2020 and current and forecasted installed capacity~~
323 ~~in kilowatts for each renewable energy generation method through~~
324 ~~2020.~~

325 ~~(b) The commission's rule:~~

326 ~~1. Shall include methods of managing the cost of compliance~~
327 ~~with the renewable portfolio standard, whether through direct~~
328 ~~supply or procurement of renewable power or through the purchase~~
329 ~~of renewable energy credits. The commission shall have~~
330 ~~rulemaking authority for providing annual cost recovery and~~
331 ~~incentive-based adjustments to authorized rates of return on~~
332 ~~common equity to providers to incentivize renewable energy.~~
333 ~~Notwithstanding s. 366.91(3) and (4), upon the ratification of~~
334 ~~the rules developed pursuant to this subsection, the commission~~
335 ~~may approve projects and power sales agreements with renewable~~
336 ~~power producers and the sale of renewable energy credits needed~~
337 ~~to comply with the renewable portfolio standard. In the event of~~
338 ~~any conflict, this subparagraph shall supersede s. 366.91(3) and~~
339 ~~(4). However, nothing in this section shall alter the obligation~~
340 ~~of each public utility to continuously offer a purchase contract~~
341 ~~to producers of renewable energy.~~

342 ~~2. Shall provide for appropriate compliance measures and~~
343 ~~the conditions under which noncompliance shall be excused due to~~
344 ~~a determination by the commission that the supply of renewable~~
345 ~~energy or renewable energy credits was not adequate to satisfy~~
346 ~~the demand for such energy or that the cost of securing~~
347 ~~renewable energy or renewable energy credits was cost~~
348 ~~prohibitive.~~

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349 ~~3. May provide added weight to energy provided by wind and~~
350 ~~solar photovoltaic over other forms of renewable energy, whether~~
351 ~~directly supplied or procured or indirectly obtained through the~~
352 ~~purchase of renewable energy credits.~~

353 ~~4. Shall determine an appropriate period of time for which~~
354 ~~renewable energy credits may be used for purposes of compliance~~
355 ~~with the renewable portfolio standard.~~

356 ~~5. Shall provide for monitoring of compliance with and~~
357 ~~enforcement of the requirements of this section.~~

358 ~~6. Shall ensure that energy credited toward compliance with~~
359 ~~the requirements of this section is not credited toward any~~
360 ~~other purpose.~~

361 ~~7. Shall include procedures to track and account for~~
362 ~~renewable energy credits, including ownership of renewable~~
363 ~~energy credits that are derived from a customer-owned renewable~~
364 ~~energy facility as a result of any action by a customer of an~~
365 ~~electric power supplier that is independent of a program~~
366 ~~sponsored by the electric power supplier.~~

367 ~~8. Shall provide for the conditions and options for the~~
368 ~~repeal or alteration of the rule in the event that new~~
369 ~~provisions of federal law supplant or conflict with the rule.~~

370 ~~(c) Beginning on April 1 of the year following final~~
371 ~~adoption of the commission's renewable portfolio standard rule,~~
372 ~~each provider shall submit a report to the commission describing~~
373 ~~the steps that have been taken in the previous year and the~~
374 ~~steps that will be taken in the future to add renewable energy~~
375 ~~to the provider's energy supply portfolio. The report shall~~
376 ~~state whether the provider was in compliance with the renewable~~
377 ~~portfolio standard during the previous year and how it will~~

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378 ~~comply with the renewable portfolio standard in the upcoming~~
379 ~~year.~~

380 (3) (a) (4) In order to promote and facilitate the
381 development of clean energy industry in this state ~~demonstrate~~
382 ~~the feasibility and viability of clean energy systems,~~ the
383 commission shall provide for full cost recovery under the
384 environmental cost-recovery clause of all reasonable and prudent
385 costs incurred by a provider for renewable energy projects that
386 result in a net decrease of ~~are zero~~ greenhouse gas emitted in
387 this state emitting at the point of generation, up to a total of
388 ~~110 megawatts statewide,~~ and for which the provider has secured
389 necessary land, zoning permits, and transmission rights within
390 the state.

391 (b) In addition to the full cost recovery for such
392 renewable energy projects, a return on equity of not less than
393 50 basis points above the top of the range of the provider's
394 last authorized rate of return on equity approved by the
395 commission for energy projects shall be approved and provided
396 for such renewable energy projects if a majority value of the
397 energy-producing components incorporated into such projects are
398 manufactured or assembled within this state.

399 (c) Such costs shall be deemed reasonable and prudent for
400 purposes of cost recovery so long as the provider has
401 demonstrated that the renewable energy project meets the
402 criteria in s. 366.921(4) (a) and used reasonable and customary
403 industry practices in the design, procurement, and construction
404 of the project in a cost-effective manner appropriate to the
405 location of the facility. The provider shall report to the
406 commission as part of the cost-recovery proceedings the

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407 construction costs, in-service costs, operating and maintenance
408 costs, hourly energy production of the renewable energy project,
409 environmental benefits, and estimated fuel savings attributable
410 to the facility and any other information deemed relevant by the
411 commission. Any provider constructing a clean energy facility
412 pursuant to this section shall file for cost recovery no later
413 than July 1, 2009.

414 (d) During any billing cycle, excess customer-owned
415 renewable generation delivered to the provider's electric grid
416 shall be credited to the customer's energy consumption for the
417 next month's billing cycle. Such energy credits produced must
418 accumulate and be used to offset the customer's energy usage in
419 subsequent months for a period of not more than 12 months. At
420 the end of each calendar year, the provider shall pay the
421 customer for any unused energy credits at an average annual rate
422 based on the provider's COG-3 energy tariff.

423 (4) Pursuant to the approval process under s. 366.921, the
424 commission shall approve a total of 700 megawatts of renewable
425 energy projects for the years 2010, 2011, and 2012, with up to a
426 total of 300 megawatts approved in 2010 and up to an additional
427 200 megawatts approved annually in 2011 and 2012, as part of new
428 renewable energy projects and an additional 35 megawatts, with
429 up to 15 megawatts annually for 2010 and up to 10 megawatts
430 annually for 2011 and 2012, which must be rooftop or pole-
431 mounted solar energy applications in addition to megawatts
432 attributable to renewable energy projects approved by the
433 commission for cost recovery before January 1, 2010. Any
434 megawatts for renewable energy projects designated for approval
435 for a specific year which remain available at the end of the

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436 calendar year shall be carried forward to the succeeding year.

437 (5) Each municipal electric utility and rural electric
438 cooperative shall develop standards for the promotion,
439 encouragement, and expansion of the use of renewable energy
440 resources and energy conservation and efficiency measures. On or
441 before April 1, 2009, and annually thereafter, each municipal
442 electric utility and electric cooperative shall submit to the
443 commission a report that identifies such standards.

444 (6) ~~Nothing in This section does not shall be construed to~~
445 ~~impede or impair terms and conditions of existing contracts.~~

446 (7) The commission may adopt rules to administer ~~and~~
447 ~~implement the provisions of this section.~~

448 Section 3. Section 366.921, Florida Statutes, is created to
449 read:

450 366.921 Renewable energy; approval process.-

451 (1) The Legislature finds that the goals stated in s.
452 366.92(1) shall be accomplished by fostering the expansion and
453 development of Florida renewable energy resources. Providers of
454 Florida renewable energy resources must acquire commission
455 approval before the construction, licensing, and operation of a
456 facility producing such resources or the purchase of capacity or
457 energy from a facility producing such resources. This
458 requirement does not apply to purchases of capacity or energy
459 under commission-approved standard-offer contracts or tariffs.
460 Any petition filed by a provider for approval of a facility
461 producing a Florida renewable energy resource must meet the
462 criteria specified in this section.

463 (2) Notwithstanding s. 403.519, the Legislature finds that
464 there is a need for new Florida renewable energy resources

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465 consistent with the goals stated in s. 366.92(1). This
466 legislative finding shall serve as the need determination
467 required under s. 403.519 and as the commission's agency report
468 under s. 403.507(4) (a).

469 (3) Upon the filing by a provider of a petition for
470 approval of a facility producing a Florida renewable energy
471 resource, the commission shall schedule a formal administrative
472 hearing within 10 days after the filing of the petition and vote
473 on the petition within 90 days after such filing.

474 (4) Before approving the petition, the commission shall
475 consider whether the:

476 (a) Proposal for the facility requires the use of
477 reasonable and customary industry practices in the design,
478 engineering, and proposed construction of the facility which are
479 appropriate to the proposed technology and location of the
480 facility.

481 (b) Entity, including a provider, which would engineer,
482 design, and construct the proposed facility has the requisite
483 technical and financial qualifications, expertise, and
484 capability.

485 (c) Entity, including a provider, which would operate the
486 proposed facility has the requisite technical qualifications,
487 expertise, and capability.

488 (d) Proposed production of the Florida renewable energy
489 resource will have a positive impact on the environment,
490 including the reduction of greenhouse gas emissions in the
491 state, measured at the point of generation.

492 (e) Proposed production of the Florida renewable energy
493 resource will result in local economic benefits, including job

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494 creation, for the state's economy.

495 (f) Proposed Florida renewable energy resource will enhance
496 the fuel diversity of the provider.

497 (g) Proposed facility producing the Florida renewable
498 energy resource will minimize or avoid the incremental use of
499 water resources at the project site in the production of
500 renewable power.

501 (5) The commission's final order approving a facility
502 producing a Florida renewable energy resource shall include
503 express authorization for annual cost recovery pursuant to ss.
504 366.8255 and 366.92.

505 (6) A provider that receives approval from the commission
506 for a specific renewable energy project pursuant to this section
507 shall file a report with the commission within 1 year after the
508 date of the order reflecting such approval. Prior to the
509 expiration of the time for filing the report, a provider may
510 request an extension of time up to 6 months to file such report
511 and the commission shall grant such request if the provider
512 demonstrates good cause for the extension. The report shall
513 summarize the status of the project, including confirmation that
514 construction of the project has commenced, and provide all
515 relevant supporting documentation. If a provider fails to timely
516 file such report, the approval of the project granted by the
517 commission shall be vacated by operation of law and the
518 megawatts attributable to such project shall be restored as part
519 of the total megawatts available for renewable energy projects
520 under s. 366.92(4).

521 (7) The Legislature finds that there is a need for all
522 proposed Florida renewable energy resources for which an

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523 application for certification has been filed by a provider and
524 is pending under part II of chapter 403, as of the effective
525 date of this act, and that such proposed Florida renewable
526 energy resources are exempt from the requirement to obtain a
527 determination of need pursuant to this section and s. 403.519.
528 Florida renewable energy resources for which an application for
529 certification has been filed by a provider and is pending under
530 part II of chapter 403, as of the effective date of this act,
531 are determined by the Legislature to meet the electrical needs
532 of the state in an orderly, reliable, and timely fashion, to
533 fulfill the provisions of s. 403.519(3), and to otherwise be in
534 the public interest. The Legislature's determination of need
535 reflected in this subsection creates a presumption of public
536 need and necessity which shall not be raised in any other forum
537 or in the review of proceedings in such other forum and shall
538 substitute for the commission's report required by s.
539 403.507(4). Notwithstanding any amendment to s. 403.503, all
540 proposed Florida renewable energy resources for which an
541 application for certification has been filed by a provider and
542 is pending under part II of chapter 403, as of the effective
543 date of this act, may, at the applicant's option, proceed to
544 obtain a final order of certification under part II of chapter
545 403.

546 Section 4. Subsection (14) of section 403.503, Florida
547 Statutes, is amended to read:

548 403.503 Definitions relating to Florida Electrical Power
549 Plant Siting Act.—As used in this act:

550 (14) "Electrical power plant" means, for the purpose of
551 certification, any steam ~~or solar~~ electrical generating facility

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552 using any process or fuel, including nuclear materials, except
553 that this term does not include any steam ~~or solar~~ electrical
554 generating facility of less than 75 megawatts in capacity or any
555 solar electrical generating facility of any sized capacity
556 unless the applicant for such a facility elects to apply for
557 certification under this act. This term also includes the site;
558 all associated facilities that will be owned by the applicant
559 that are physically connected to the site; all associated
560 facilities that are indirectly connected to the site by other
561 proposed associated facilities that will be owned by the
562 applicant; and associated transmission lines that will be owned
563 by the applicant which connect the electrical power plant to an
564 existing transmission network or rights-of-way to which the
565 applicant intends to connect. At the applicant's option, this
566 term may include any offsite associated facilities that will not
567 be owned by the applicant; offsite associated facilities that
568 are owned by the applicant but that are not directly connected
569 to the site; any proposed terminal or intermediate substations
570 or substation expansions connected to the associated
571 transmission line; or new transmission lines, upgrades, or
572 improvements of an existing transmission line on any portion of
573 the applicant's electrical transmission system necessary to
574 support the generation injected into the system from the
575 proposed electrical power plant.

576 Section 5. This act shall take effect upon becoming a law.