

By the Committee on Communications, Energy, and Public Utilities; and Senator Diaz de la Portilla

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1 A bill to be entitled
2 An act relating to renewable energy; amending
3 s. 288.9602, F.S.; deleting references to cities and
4 counties for purposes of legislative findings;
5 amending s. 288.9603, F.S.; revising definitions;
6 amending s. 288.9604, F.S.; deleting obsolete
7 provisions relating to the creation of the Florida
8 Development Finance Corporation; amending s. 288.9605,
9 F.S.; authorizing the corporation to issue notes or
10 other evidence of indebtedness for the purpose of
11 financing any capital projects that promote economic
12 development within the state; authorizing the
13 corporation to acquire real property and any
14 improvements to that real property; authorizing the
15 corporation to accept money from the state, county, or
16 any other public agency; amending s. 288.9606, F.S.;
17 making conforming changes and deleting obsolete
18 provisions; authorizing the corporation to approve a
19 guaranty of debt service payments for bonds or other
20 indebtedness used to finance any capital project that
21 promotes economic development within the state;
22 providing limitations on such guarantees; authorizing
23 the corporation to use the guaranty program in
24 conjunction with any federal guaranty programs
25 described in s. 406 of the American Recovery and
26 Reinvestment Act of 2009; making conforming changes
27 and deleting obsolete provisions; amending ss.
28 288.9607 and 288.9608, F.S.; renaming the Revenue Bond
29 Guaranty Reserve Account as the "Energy, Technology,

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30 and Economic Development Guaranty Fund"; providing
31 duties of the Florida Development Finance Corporation
32 with respect to the guaranty of debt service payments
33 for bonds or other indebtedness used to finance
34 capital projects; limiting the percentage of the total
35 aggregate principal amount which may be guaranteed by
36 the fund; deleting obsolete provisions; providing for
37 the deposit of general revenue into the fund; amending
38 ss. 288.9609 and 288.9610, F.S., relating to
39 requirements for bond investments and reports by the
40 corporation; making conforming changes; amending s.
41 366.02, F.S.; revising the definition of the term
42 "public utility" to exclude a developer of certain
43 solar energy generation facilities; amending s.
44 366.91, F.S.; providing legislative intent and
45 findings; revising definitions; deleting a requirement
46 that each public utility continuously offer a purchase
47 contract to all producers of renewable energy;
48 requiring that each public utility purchase renewable
49 energy from producers that meet specified criteria;
50 establishing by statute the amount that is to be paid
51 to such renewable energy producers as avoided cost;
52 amending s. 366.92, F.S.; deleting provisions
53 requiring that the Public Service Commission adopt
54 rules for a renewable portfolio standard; requiring
55 that the commission provide for full cost recovery for
56 certain renewable energy projects; requiring the
57 commission to approve certain renewable energy
58 projects; providing exemptions from determination-of-

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59 need requirements; providing that certain legislative
60 determinations constitute a public need and necessity
61 and fulfill certain determination-of-need
62 requirements; requiring that the commission adopt
63 rules; creating s. 366.921, F.S.; providing
64 legislative findings; requiring that a petition filed
65 by a provider for approval of a facility producing a
66 Florida renewable energy resource comply with certain
67 criteria; specifying the criteria to be considered by
68 the commission in approving a petition for such
69 facility; requiring that the commission's final order
70 approving a facility include authorization for annual
71 cost recovery; amending s. 403.503, F.S.; redefining
72 the term "electrical power plant" for purposes of the
73 Florida Electrical Power Plant Siting Act to exclude
74 solar electrical or hydroelectric generating
75 facilities; providing that any competitively procured
76 purchased power agreement for solar power which is
77 voluntarily executed by an investor-owned utility by a
78 specified date is presumed prudently incurred and the
79 costs exceeding the utility's full avoided costs for
80 the purchased power shall be recoverable as an
81 environmental compliance cost if certain conditions
82 are met; requiring that the commission immediately
83 consider and approve such agreements; providing an
84 effective date.

85
86 Be It Enacted by the Legislature of the State of Florida:
87

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88 Section 1. Section 288.9602, Florida Statutes, is amended
89 to read:

90 288.9602 Findings and declarations of necessity.—The
91 Legislature finds and declares that:

92 (1) There is a need to enhance economic activity in the
93 ~~eities and counties of the~~ state by attracting manufacturing,
94 development, social services, redevelopment of brownfield areas,
95 business enterprise management, and other activities conducive
96 to economic promotion in order to provide a stronger, more
97 balanced, and stable economy in the ~~eities and counties of the~~
98 state.

99 (2) A significant portion of businesses located in the
100 ~~eities and counties of the~~ state or desiring to locate in the
101 ~~eities and counties of the~~ state encounter difficulty in
102 obtaining financing on terms competitive with those available to
103 businesses located in other states and nations or are unable to
104 obtain such financing at all.

105 (3) The difficulty in obtaining such financing impairs the
106 expansion of economic activity and the creation of jobs and
107 income in communities throughout the state.

108 (4) The businesses most often affected by these financing
109 difficulties are small businesses critical to the economic
110 development of ~~the eities and counties of~~ Florida.

111 (5) The economic well-being of the people in, and the
112 commercial and industrial resources of, ~~the eities and counties~~
113 ~~of~~ the state would be enhanced by the provision of financing to
114 businesses on terms competitive with those available in the most
115 developed financial markets worldwide.

116 (6) In order to improve the prosperity and welfare of ~~the~~

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117 ~~eities and counties~~ of this state and its inhabitants, to
118 improve and promote the financing of projects related to the
119 economic development of ~~the cities and counties~~ of this state,
120 including redevelopment of brownfield areas, and to increase the
121 purchasing power and opportunities for gainful employment of
122 citizens of ~~the cities and counties~~ of this state, it is
123 necessary and in the public interest to facilitate the financing
124 of such projects as provided for in this act and to do so
125 without regard to the boundaries between counties,
126 municipalities, special districts, and other local governmental
127 bodies or agencies in order to more effectively and efficiently
128 serve the interests of the greatest number of people in the
129 widest area practicable.

130 (7) In order to promote and stimulate development and
131 advance the business prosperity and economic welfare of ~~the~~
132 ~~eities and counties~~ of this state and its inhabitants; to
133 encourage and assist new business and industry in this state
134 through loans, investments, or other business transactions; to
135 rehabilitate and assist existing businesses; to stimulate and
136 assist in the expansion of all kinds of for-profit and not-for-
137 profit business activity; and to create maximum opportunities
138 for employment, encouragement of thrift, and improvement of the
139 standard of living of the citizens of Florida, it is necessary
140 and in the public interest to facilitate the cooperation and
141 action between organizations, public and private, in the
142 promotion, development, and conduct of all kinds of for-profit
143 and not-for-profit business activity in the state.

144 (8) In order to efficiently and effectively achieve the
145 purposes of this act, it is necessary and in the public interest

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146 to create a special development finance authority to cooperate
147 and act in conjunction with public agencies of this state and
148 local governments of this state, through interlocal agreements
149 pursuant to the Florida Interlocal Cooperation Act of 1969, in
150 the promotion and advancement of projects related to economic
151 development, including redevelopment of brownfield areas,
152 throughout the state.

153 (9) The purposes to be achieved by the special development
154 finance authority through such projects and such financings of
155 business and industry in compliance with the criteria and the
156 requirements of this act are predominantly the public purposes
157 stated in this section, and such purposes implement the
158 governmental purposes under the State Constitution of providing
159 for the health, safety, and welfare of the people of the state,
160 ~~including implementing the purpose of s. 10(c), Art. VII of the~~
161 ~~State Constitution and simultaneously provide new and innovative~~
162 ~~means for the investment of public trust funds in accordance~~
163 ~~with s. 10(a), Art. VII of the State Constitution.~~

164 Section 2. Section 288.9603, Florida Statutes, is amended
165 to read:

166 288.9603 Definitions.—

167 (1) "Act" means the Florida Development Finance Corporation
168 Act of 1993, and all acts supplemental thereto and amendatory
169 thereof.

170 (2) "Amortization payments" means periodic payments, such
171 as monthly, semiannually, or annually, of interest on premiums,
172 if any, and installments of principal of revenue bonds as
173 required by an indenture of the corporation.

174 (3) "Applicant" means the individual, firm, or corporation,

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175 whether for profit or nonprofit, charged with developing the
176 project under the terms of the indenture of the corporation.

177 (4) "Cash equivalents" shall include letters of credit
178 issued by investment grade rated financial institutions or their
179 subsidiaries; direct obligations of the government of the United
180 States of America, or any agency thereof, or obligations
181 unconditionally guaranteed by the United States of America;
182 certificates of deposit issued by investment grade rated
183 financial institutions or their subsidiaries; and investments in
184 commercial paper which, at the time of acquisition by the
185 corporation is accorded the highest rating by Standard & Poor's
186 Corporation, Moody's Investors Services, Inc., or any other
187 nationally recognized credit rating agency of similar standing,
188 provided that in each such case such investments shall be
189 convertible to cash as may be reasonably necessary for
190 application of such moneys as and when the same are to be
191 applied in accordance with the provisions of this act.

192 (5) "Corporation" means the Florida Development Finance
193 Corporation.

194 (6) "Debt service" shall mean for any bonds issued by the
195 corporation or for any bonds or other form of indebtedness ~~and~~
196 for which a guaranty has been issued pursuant to ss. 288.9606,
197 288.9607, and 288.9608, for any period for which such
198 determination is to be made, the aggregate amount of all
199 interest charges due or which shall become due on or with
200 respect to such bonds or indebtedness during the period for
201 which such determination is being made, plus the aggregate
202 amount of scheduled principal payments due or which shall become
203 due on or with respect to such bonds or indebtedness during the

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204 period for which such determination is being made. Scheduled
205 principal payments may include only principal payments that are
206 scheduled as part of the terms of the original bond or
207 indebtedness issue and that result in the reduction of the
208 outstanding principal balance of the bonds or indebtedness.

209 (7) "Economic development specialist" means a resident of
210 the state who is professionally employed in the discipline of
211 economic development or industrial development.

212 (8) "Financial institution" means any banking corporation
213 or trust company, savings and loan association, insurance
214 company or related corporation, partnership, foundation, or
215 other institution engaged primarily in lending or investing
216 funds in this state.

217 (9) "Maximum debt service" shall mean, for any period of 6
218 months or 1 year, as the case may be, during the life of any
219 bonds issued by the corporation and for which a guaranty has
220 been issued pursuant to ss. 288.9606, 288.9607, and 288.9608 and
221 for which such determination is being made, the maximum amount
222 of the debt service which is due or will become due during such
223 period of time on or with respect to such bonds. For the
224 purposes of calculating the amount of the maximum debt service
225 with respect to any bonds which bear interest at a variable
226 rate, the corporation shall utilize a fixed rate which it in its
227 reasonable discretion determines to be appropriate.

228 (10) "Partnership" means Enterprise Florida, Inc.

229 (11) "Guaranty agreement" means an agreement by and between
230 the corporation and an applicant ~~a public agency~~ pursuant to the
231 provisions of s. 288.9607.

232 (12) "Guaranty agreement fund" means the Energy,

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233 Technology, and Economic Development Revenue Bond Guaranty Fund
234 ~~Reserve Account~~ established by the corporation pursuant to s.
235 288.9608.

236 (13) "Interlocal agreement" means an agreement by and
237 between the Florida Development Finance Corporation and a public
238 agency of this state, pursuant to the provisions of s. 163.01.

239 (14) "Public agency" means a political subdivision, agency,
240 or officer of this state or of any state of the United States,
241 including, but not limited to, state, government, county, city,
242 school district, single and multipurpose special district,
243 single and multipurpose public authority, metropolitan or
244 consolidated government, an independently elected county
245 officer, any agency of the United States Government, and any
246 similar entity of any other state of the United States.

247 Section 3. Section 288.9604, Florida Statutes, is amended
248 to read:

249 288.9604 Creation of the authority.—

250 (1) ~~Upon a finding of necessity by a city or county of this~~
251 ~~state, selected pursuant to subsection (2),~~ There is created a
252 public body corporate and politic known as the "Florida
253 Development Finance Corporation." The corporation shall be
254 constituted as a public instrumentality ~~of local government,~~ and
255 the exercise by the corporation of the powers conferred by this
256 act shall be deemed and held to be the performance of an
257 essential public function. The corporation has the power to
258 function within the corporate limits of any public agency with
259 which it has entered into an interlocal agreement for any of the
260 purposes of this act.

261 ~~(2) A city or county of Florida shall be selected by a~~

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262 ~~search committee of Enterprise Florida, Inc. This city or county~~
263 ~~shall be authorized to activate the corporation. The search~~
264 ~~committee shall be composed of two commercial banking~~
265 ~~representatives, the Senate member of the partnership, the House~~
266 ~~of Representatives member of the partnership, and a member who~~
267 ~~is an industry or economic development professional.~~

268 (2)~~(3)~~ Upon activation of the corporation, The Governor,
269 subject to confirmation by the Senate, shall appoint the board
270 of directors of the corporation, who shall be five in number.
271 The terms of office for the directors shall be for 4 years from
272 the date of their appointment. A vacancy occurring during a term
273 shall be filled for the unexpired term. A director shall be
274 eligible for reappointment. At least three of the directors of
275 the corporation shall be bankers who have been selected by the
276 Governor from a list of bankers who were nominated by Enterprise
277 Florida, Inc., and one of the directors shall be an economic
278 development specialist. The chairperson of the Florida Black
279 Business Investment Board shall be an ex officio member of the
280 board of the corporation.

281 (3)~~(4)~~(a) A director shall receive no compensation for his
282 or her services, but is entitled to the necessary expenses,
283 including travel expenses, incurred in the discharge of his or
284 her duties. Each director shall hold office until his or her
285 successor has been appointed.

286 (b) The powers of the corporation shall be exercised by the
287 directors thereof. A majority of the directors constitutes a
288 quorum for the purposes of conducting business and exercising
289 the powers of the corporation and for all other purposes. Action
290 may be taken by the corporation upon a vote of a majority of the

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291 directors present, unless in any case the bylaws require a
292 larger number. Any person may be appointed as director if he or
293 she resides, or is engaged in business, which means owning a
294 business, practicing a profession, or performing a service for
295 compensation or serving as an officer or director of a
296 corporation or other business entity so engaged, within the
297 state.

298 (c) The directors of the corporation shall annually elect
299 one of their members as chair and one as vice chair. The
300 corporation may employ a president, technical experts, and such
301 other agents and employees, permanent and temporary, as it
302 requires and determine their qualifications, duties, and
303 compensation. For such legal services as it requires, the
304 corporation may employ or retain its own counsel and legal
305 staff. The corporation shall file with the governing body of
306 each public agency with which it has entered into an interlocal
307 agreement and with the Governor, the Speaker of the House of
308 Representatives, the President of the Senate, the Minority
309 Leaders of the Senate and House of Representatives, and the
310 Auditor General, on or before 90 days after the close of the
311 fiscal year of the corporation, a report of its activities for
312 the preceding fiscal year, which report shall include a complete
313 financial statement setting forth its assets, liabilities,
314 income, and operating expenses as of the end of such fiscal
315 year.

316 (4)~~(5)~~ The board may remove a director for inefficiency,
317 neglect of duty, or misconduct in office only after a hearing
318 and only if he or she has been given a copy of the charges at
319 least 10 days prior to such hearing and has had an opportunity

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320 to be heard in person or by counsel. The removal of a director
321 shall create a vacancy on the board which shall be filled
322 pursuant to subsection (2) ~~(3)~~.

323 Section 4. Section 288.9605, Florida Statutes, is amended
324 to read:

325 288.9605 Corporation powers.—

326 (1) The powers of the corporation created by s. 288.9604
327 shall include all the powers necessary or convenient to carry
328 out and effectuate the purposes and provisions of this act.

329 (2) The corporation is authorized and empowered to:

330 (a) Have perpetual succession as a body politic and
331 corporate and adopt bylaws for the regulation of its affairs and
332 the conduct of its business.

333 (b) Adopt an official seal and alter the same at its
334 pleasure.

335 (c) Maintain an office at such place or places as it may
336 designate.

337 (d) Sue and be sued in its own name and plead and be
338 impleaded.

339 (e) Enter into interlocal agreements pursuant to s.
340 163.01(7) with public agencies of this state for the exercise of
341 any power, privilege, or authority consistent with the purposes
342 of this act.

343 (f) Issue, from time to time, revenue bonds, notes, or
344 other evidences of indebtedness, including, but not limited to,
345 taxable bonds and bonds the interest on which is exempt from
346 federal income taxation, for the purpose of financing and
347 refinancing any capital projects that promote economic
348 development within the state thereby benefitting the residents

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349 of the state for applicants and exercise all powers in
350 connection with the authorization, issuance, and sale of bonds,
351 subject to the provisions of s. 288.9606.

352 (g) Issue bond anticipation notes in connection with the
353 authorization, issuance, and sale of such bonds, pursuant to the
354 provisions of s. 288.9606.

355 (h) Make and execute contracts and other instruments
356 necessary or convenient to the exercise of its powers under the
357 act.

358 (i) Disseminate information about itself and its
359 activities.

360 (j) Acquire, by purchase, lease, option, gift, grant,
361 bequest, devise, or otherwise, real property, together with any
362 improvements thereon, or personal property for its
363 administrative purposes, or in furtherance of the purposes of
364 this act, ~~together with any improvements thereon~~.

365 (k) Hold, improve, clear, or prepare for development any
366 such property.

367 (l) Mortgage, pledge, hypothecate, or otherwise encumber or
368 dispose of any real or personal property.

369 (m) Insure or provide for insurance of any real or personal
370 property or operations of the corporation or any private
371 enterprise against any risks or hazards, including the power to
372 pay premiums on any such insurance.

373 (n) Establish and fund a guaranty fund in furtherance of
374 the purposes of this act.

375 (o) Invest funds held in reserve or sinking funds or any
376 such funds not required for immediate disbursement in property
377 or securities in such manner as the board shall determine,

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378 subject to the authorizing resolution on any bonds issued, and
379 to terms established in the investment agreement pursuant to ss.
380 288.9606, 288.9607, and 288.9608, and redeem such bonds as have
381 been issued pursuant to s. 288.9606 at the redemption price
382 established therein or purchase such bonds at less than
383 redemption price, all such bonds so redeemed or purchased to be
384 canceled.

385 (p) Borrow money and apply for and accept advances, loans,
386 grants, contributions, and any other form of financial
387 assistance from the Federal Government or the state, county, or
388 other public agency ~~body~~ or from any sources, public or private,
389 for the purposes of this act and give such security as may be
390 required and enter into and carry out contracts or agreements in
391 connection therewith; and include in any contract for financial
392 assistance with the Federal Government or the state, county, or
393 other public agency for, or with respect to, any purposes under
394 this act and related activities such conditions imposed pursuant
395 to federal laws as the county or municipality or other public
396 agency deems reasonable and appropriate which are not
397 inconsistent with the provisions of this act.

398 (q) Make or have all surveys and plans necessary for the
399 carrying out of the purposes of this act, contract with any
400 person, public or private, in making and carrying out such
401 plans, and adopt, approve, modify, and amend such plans.

402 (r) Develop, test, and report methods and techniques and
403 carry out demonstrations and other activities for the promotion
404 of any of the purposes of this act.

405 (s) Apply for, accept, and utilize grants from the Federal
406 Government or the state, county, or other public agency

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407 available for any of the purposes of this act.

408 (t) Make expenditures necessary to carry out the purposes
409 of this act.

410 (u) Exercise all or any part or combination of powers
411 granted in this act.

412 (v) Enter into investment agreements with the Florida Black
413 Business Investment Board concerning the issuance of bonds and
414 other forms of indebtedness and capital for the purposes of ss.
415 288.707-288.714.

416 (w) Determine the situations and circumstances for
417 participation in partnerships by agreement with local
418 governments, financial institutions, and others associated with
419 the redevelopment of brownfield areas pursuant to the
420 Brownfields Redevelopment Act for a limited state guaranty of
421 revenue bonds, loan guarantees, or loan loss reserves.

422 Section 5. Section 288.9606, Florida Statutes, is amended
423 to read:

424 288.9606 Issue of revenue bonds.—

425 (1) When authorized by a public agency pursuant to s.
426 163.01(7), the corporation has power in its corporate capacity,
427 in its discretion, to issue revenue bonds or other evidences of
428 indebtedness which a public agency has the power to issue, from
429 time to time to finance the undertaking of any purpose of this
430 act and ss. 288.707-288.714, including, without limiting the
431 generality thereof, the payment of principal and interest upon
432 any advances for surveys and plans or preliminary loans, and has
433 the power to issue refunding bonds for the payment or retirement
434 of bonds previously issued. Bonds issued pursuant to this
435 section shall bear the name "Florida Development Finance

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436 Corporation Revenue Bonds." The security for such bonds may be
437 based upon such revenues as are legally available. In
438 anticipation of the sale of such revenue bonds, the corporation
439 may issue bond anticipation notes and may renew such notes from
440 time to time, but the maximum maturity of any such note,
441 including renewals thereof, may not exceed 5 years from the date
442 of issuance of the original note. Such notes shall be paid from
443 any revenues of the corporation available therefor and not
444 otherwise pledged or from the proceeds of sale of the revenue
445 bonds in anticipation of which they were issued. Any bond, note,
446 or other form of indebtedness issued pursuant to this act shall
447 mature no later than the end of the 30th fiscal year after the
448 fiscal year in which the bond, note, or other form of
449 indebtedness was issued.

450 (2) Bonds issued under this section do not constitute an
451 indebtedness within the meaning of any constitutional or
452 statutory debt limitation or restriction, and are not subject to
453 the provisions of any other law or charter relating to the
454 authorization, issuance, or sale of bonds. Bonds issued under
455 the provisions of this act are declared to be for an essential
456 public and governmental purpose. Bonds issued under this act,
457 the interest on which is exempt from income taxes of the United
458 States, together with interest thereon and income therefrom, are
459 exempted from all taxes, except those taxes imposed by chapter
460 220, on interest, income, or profits on debt obligations owned
461 by corporations.

462 (3) Bonds issued under this section shall be authorized by
463 a public agency of this state pursuant to the terms of an
464 interlocal agreement, unless such bonds are issued pursuant to

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465 subsection (7); may be issued in one or more series; and shall
466 bear such date or dates, be payable upon demand or mature at
467 such time or times, bear interest rate or rates, be in such
468 denomination or denominations, be in such form either with or
469 without coupon or registered, carry such conversion or
470 registration privileges, have such rank or priority, be executed
471 in such manner, be payable in such medium of payments at such
472 place or places, be subject to such terms of redemption, with or
473 without premium, be secured in such manner, and have such other
474 characteristics as may be provided by the corporation interlocal
475 ~~agreement issued pursuant thereto~~. Bonds issued under this
476 section may be sold in such manner, either at public or private
477 sale, and for such price as the corporation may determine will
478 effectuate the purpose of this act.

479 (4) In case a director whose signature appears on any bonds
480 or coupons issued under this act ceases to be a director before
481 the delivery of such bonds, such signature is, nevertheless,
482 valid and sufficient for all purposes, the same as if such
483 director had remained in office until such delivery.

484 (5) In any suit, action, or proceeding involving the
485 validity or enforceability of any bond issued under this act, or
486 the security therefor, any such bond reciting in substance that
487 it has been issued by the corporation in connection with any
488 purpose of the act shall be conclusively deemed to have been
489 issued for such purpose, and such purpose shall be conclusively
490 deemed to have been carried out in accordance with the act. The
491 complaint in any action to validate such bonds shall be filed
492 only in the Circuit Court for Leon County. The notice required
493 to be published by s. 75.06 shall be published only in Leon

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494 County, and the complaint and order of the circuit court shall
495 be served only on the State Attorney of the Second Judicial
496 Circuit—and on the state attorney of each circuit in each county
497 where the public agencies which were initially a party to the
498 interlocal agreement are located. Notice of such proceedings
499 shall be published in the manner and the time required by s.
500 75.06, in Leon County and in each county where the public
501 agencies which were initially a party to the interlocal
502 agreement are located. Obligations of the corporation pursuant
503 to a loan agreement as described in this subsection may be
504 validated as provided in chapter 75. The validation of at least
505 the first bonds approved by the corporation shall be appealed to
506 the Florida Supreme Court. ~~The complaint in the validation~~
507 ~~proceeding shall specifically address the constitutionality of~~
508 ~~using the investment of the earnings accrued and collected upon~~
509 ~~the investment of the minimum balance funds required to be~~
510 ~~maintained in the State Transportation Trust Fund to guarantee~~
511 ~~such bonds. If such proceeding results in an adverse ruling and~~
512 ~~such bonds and guaranty are found to be unconstitutional,~~
513 ~~invalid, or unenforceable, then the corporation shall no longer~~
514 ~~be authorized to use the investment of the earnings accrued and~~
515 ~~collected upon the investment of the minimum balance of the~~
516 ~~State Transportation Trust Fund to guarantee any bonds.~~

517 (6) The proceeds of any bonds of the corporation may not be
518 used, in any manner, to acquire any building or facility that
519 will be, during the pendency of the financing, used by, occupied
520 by, leased to, or paid for by any state, county, or municipal
521 agency or entity.

522 (7) Notwithstanding anything to the contrary contained in

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523 this section, the corporation has power in its corporate
524 capacity, in its discretion, to issue revenue bonds or other
525 evidences of indebtedness pursuant to this section without any
526 authorization by a public agency pursuant to s. 163.01(7), to:
527 finance the undertaking of any project within the state which
528 promotes renewable energy as defined in s. 377.803 or s.
529 366.91(2)(d); finance the undertaking of any project within the
530 state which is a project contemplated or allowed under s. 406 of
531 the American Recovery and Reinvestment Act of 2009, as may be
532 supplemented and amended from time to time; and, if permitted by
533 federal law, to finance property assessed as clean energy
534 projects within the state.

535 Section 6. Section 288.9607, Florida Statutes, is amended
536 to read:

537 288.9607 Guaranty Program ~~of bond issues.~~

538 (1) The corporation is hereby authorized to approve or
539 deny, by a majority vote of the membership of the directors, a
540 guaranty of debt service payments for bonds or other
541 indebtedness used to finance any capital project that promotes
542 economic development within the state, including, but not
543 limited to, those capital projects for which revenue bonds have
544 been or will be the guaranty of any revenue bonds issued
545 pursuant to this act, provided that any such guaranty shall not
546 exceed 5 percent of the total aggregate principal amount of
547 bonds or other indebtedness relating to any one capital project.
548 ~~The guaranty may also be of the obligations of the corporation~~
549 ~~with respect to any letter of credit, bond insurance, or other~~
550 ~~form of credit enhancement provided by any person with respect~~
551 ~~to any revenue bonds issued by the corporation pursuant to this~~

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552 ~~act.~~

553 (2) Any applicant ~~for financing from the corporation,~~
554 requesting a guaranty of ~~the bonds issued by~~ the corporation
555 under this act must submit a guaranty application, in a form
556 acceptable to the corporation, together with supporting
557 documentation to the corporation as provided in this section.

558 (3) All applicants that ~~which~~ have entered into a guaranty
559 agreement with the corporation shall pay a guaranty premium on
560 such terms and at such rates as the corporation shall determine
561 prior to the issuance of the guaranty bonds. The corporation may
562 adopt such guaranty premium structures as it deems appropriate,
563 including, without limitation, guaranty premiums that ~~which~~ are
564 payable one time upon the issuance of the guaranty bonds or
565 annual premiums payable upon the outstanding principal balance
566 of bonds or other indebtedness that is guaranteed from time to
567 time. The premium payment may be collected by the corporation
568 from any ~~the~~ lessee of the project involved, from the applicant,
569 or from any other payee of any ~~the~~ loan agreement involved.

570 (4) All applications for a guaranty must acknowledge that
571 as a condition to the issuance of the guaranty, the corporation
572 may require that the financing must be secured by a mortgage or
573 security interest on the property acquired which will have such
574 priority over other liens on such property as may be required by
575 the corporation, and that the financing must be guaranteed by
576 such person or persons with such ownership interest in the
577 applicant as may be required by the corporation.

578 (5) Personal financial records, trade secrets, or
579 proprietary information of applicants delivered to or obtained
580 by the corporation shall be confidential and exempt from the

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581 provisions of s. 119.07(1).

582 (6) If the application for a guaranty is approved by the
583 corporation, the corporation and the applicant shall enter into
584 a guaranty agreement. In accordance with the provisions of the
585 guaranty agreement, the corporation guarantees to use the funds
586 on deposit in its Energy, Technology, and Economic Development
587 ~~Revenue Bond Guaranty Fund Reserve Account~~ to meet debt service
588 ~~amortization~~ payments on the bonds or indebtedness as they
589 become due, in the event and to the extent that the applicant is
590 unable to meet such payments ~~in accordance with the terms of the~~
591 ~~bond indenture when called to do so by the trustee of the~~
592 ~~bondholders~~, or to make similar payments to reimburse any person
593 which has provided credit enhancement for the bonds and which
594 has advanced funds to meet such debt service ~~amortization~~
595 payments as they become due, provided that such guaranty of the
596 corporation shall be limited to 5 percent of the total aggregate
597 principal amount of bonds or other indebtedness relating to any
598 one capital project. If the applicant defaults on debt service
599 ~~bond amortization~~ payments, the corporation may use funds on
600 deposit in the Energy, Technology, and Economic Development
601 ~~Revenue Bond Guaranty Fund Reserve Account~~ to pay insurance,
602 maintenance, and other costs which may be required for the
603 preservation of any capital project or other collateral security
604 for any bond or indebtedness issued to finance a capital project
605 for which debt service payments have been guaranteed by the
606 corporation, ~~issued by the corporation, or to otherwise protect~~
607 ~~the reserve account from loss, or to minimize losses to the~~
608 ~~reserve account, in each case~~ in such manner as may be deemed
609 necessary and advisable by the corporation.

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610 ~~(7)(a) The corporation is authorized to enter into an~~
611 ~~investment agreement with the Department of Transportation and~~
612 ~~the State Board of Administration concerning the investment of~~
613 ~~the earnings accrued and collected upon the investment of the~~
614 ~~minimum balance of funds required to be maintained in the State~~
615 ~~Transportation Trust Fund pursuant to s. 339.135(6)(b). Such~~
616 ~~investment shall be limited as follows:~~

617 ~~1. Not more than \$4 million of the investment earnings~~
618 ~~earned on the investment of the minimum balance of the State~~
619 ~~Transportation Trust Fund in a fiscal year shall be at risk at~~
620 ~~any time on one or more bonds or series of bonds issued by the~~
621 ~~corporation.~~

622 ~~2. The investment earnings shall not be used to guarantee~~
623 ~~any bonds issued after June 30, 1998, and in no event shall the~~
624 ~~investment earnings be used to guarantee any bond issued for a~~
625 ~~maturity longer than 15 years.~~

626 ~~3. The corporation shall pay a reasonable fee, set by the~~
627 ~~State Board of Administration, in return for the investment of~~
628 ~~such funds. The fee shall not be less than the comparable rate~~
629 ~~for similar investments in terms of size and risk.~~

630 ~~4. The proceeds of bonds, or portions thereof, issued by~~
631 ~~the corporation for which a guaranty has been or will be issued~~
632 ~~pursuant to s. 288.9606, s. 288.9608, or this section used to~~
633 ~~make loans to any one person, including any related interests,~~
634 ~~as defined in s. 658.48, of such person, shall not exceed 20~~
635 ~~percent of the principal of all such outstanding bonds of the~~
636 ~~corporation issued prior to the first composite bond issue of~~
637 ~~the corporation, or December 31, 1995, whichever comes first,~~
638 ~~and shall not exceed 15 percent of the principal of all such~~

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639 ~~outstanding bonds of the corporation issued thereafter, in each~~
640 ~~case determined as of the date of issuance of the bonds for~~
641 ~~which such determination is being made and taking into account~~
642 ~~the principal amount of such bonds to be issued. The provisions~~
643 ~~of this subparagraph shall not apply when the total amount of~~
644 ~~all such outstanding bonds issued by the corporation is less~~
645 ~~than \$10 million. For the purpose of calculating the limits~~
646 ~~imposed by the provisions of this subparagraph, the first \$10~~
647 ~~million of bonds issued by the corporation shall be taken into~~
648 ~~account.~~

649 ~~5. The corporation shall establish a debt service reserve~~
650 ~~account which contains not less than 6 months' debt service~~
651 ~~reserves from the proceeds of the sale of any bonds, or portions~~
652 ~~thereof, guaranteed by the corporation.~~

653 ~~6. The corporation shall establish an account known as the~~
654 ~~Revenue Bond Guaranty Reserve Account, the Guaranty Fund. The~~
655 ~~corporation shall deposit a sum of money or other cash~~
656 ~~equivalents into this fund and maintain a balance of money or~~
657 ~~cash equivalents in this fund, from sources other than the~~
658 ~~investment of earnings accrued and collected upon the investment~~
659 ~~of the minimum balance of funds required to be maintained in the~~
660 ~~State Transportation Trust Fund, not less than a sum equal to 1~~
661 ~~year of maximum debt service on all outstanding bonds, or~~
662 ~~portions thereof, of the corporation for which a guaranty has~~
663 ~~been issued pursuant to ss. 288.9606, 288.9607, and 288.9608. In~~
664 ~~the event the corporation fails to maintain the balance required~~
665 ~~pursuant to this subparagraph for any reason other than a~~
666 ~~default on a bond issue of the corporation guaranteed pursuant~~
667 ~~to this section or because of the use by the corporation of any~~

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668 ~~such funds to pay insurance, maintenance, or other costs which~~
669 ~~may be required for the preservation of any project or other~~
670 ~~collateral security for any bond issued by the corporation, or~~
671 ~~to otherwise protect the Revenue Bond Guaranty Reserve Account~~
672 ~~from loss while the applicant is in default on amortization~~
673 ~~payments, or to minimize losses to the reserve account in each~~
674 ~~case in such manner as may be deemed necessary or advisable by~~
675 ~~the corporation, the corporation shall immediately notify the~~
676 ~~Department of Transportation of such deficiency. Any~~
677 ~~supplemental funding authorized by an investment agreement~~
678 ~~entered into with the Department of Transportation and the State~~
679 ~~Board of Administration concerning the use of investment~~
680 ~~earnings of the minimum balance of funds is void unless such~~
681 ~~deficiency of funds is cured by the corporation within 90 days~~
682 ~~after the corporation has notified the Department of~~
683 ~~Transportation of such deficiency.~~

684 ~~(b) Unless specifically prohibited in the General~~
685 ~~Appropriations Act, the earnings accrued and collected upon the~~
686 ~~investment of the minimum balance of funds required to be~~
687 ~~maintained in the State Transportation Trust Fund may continue~~
688 ~~to be used pursuant to paragraph (a).~~

689 ~~(c) The guaranty shall not be a general obligation of the~~
690 ~~corporation or of the state, but shall be a special obligation,~~
691 ~~which constitutes the investment of a public trust fund. In no~~
692 ~~event shall the guaranty constitute an indebtedness of the~~
693 ~~corporation, the State of Florida, or any political subdivision~~
694 ~~thereof within the meaning of any constitutional or statutory~~
695 ~~limitation. Each guaranty agreement shall have plainly stated on~~
696 ~~the face thereof that it has been entered into under the~~

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697 provisions of this act and that it does not constitute an
698 indebtedness of the corporation, the state, or any political
699 subdivision thereof within any constitutional or statutory
700 limitation, and that neither the full faith and credit of the
701 State of Florida nor any of its revenues is pledged to meet any
702 of the obligations of the corporation under such guaranty
703 agreement. Each such agreement shall state that the obligation
704 of the corporation under the guaranty shall be limited to the
705 funds available in the Energy, Technology, and Economic
706 Development Revenue Bond Guaranty Fund Reserve Account as
707 authorized by this section.

708
709 ~~The corporation shall include, as part of the annual report~~
710 ~~prepared pursuant to s. 288.9610, a detailed report concerning~~
711 ~~the use of guaranteed bond proceeds for loans guaranteed or~~
712 ~~issued pursuant to any agreement with the Florida Black Business~~
713 ~~Investment Board, including the percentage of such loans~~
714 ~~guaranteed or issued and the total volume of such loans~~
715 ~~guaranteed or issued.~~

716 (8) In the event the corporation does not approve the
717 application for a guaranty, the applicant shall be notified in
718 writing of the corporation's determination that the application
719 not be approved.

720 (9) The membership of the corporation is authorized and
721 directed to conduct such investigation as it may deem necessary
722 for promulgation of regulations to govern the operation of the
723 guaranty program authorized by this section. The regulations may
724 include such other additional provisions, restrictions, and
725 conditions as the corporation, after its investigation referred

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726 to in this subsection, shall determine to be proper to achieve
727 the most effective utilization of the guaranty program. This may
728 include, without limitation, a detailing of the remedies that
729 must be exhausted by ~~the~~ bondholders, or a trustee acting on
730 their behalf, or other credit provider prior to calling upon the
731 corporation to perform under its guaranty agreement and the
732 subrogation of other rights of the corporation with reference to
733 the capital project and its operation or the financing in the
734 event the corporation makes payment pursuant to the applicable
735 guaranty agreement. The regulations promulgated by the
736 corporation to govern the operation of the guaranty program may
737 ~~shall~~ contain specific provisions with respect to the rights of
738 the corporation to enter, take over, and manage all financed
739 properties upon default. These regulations shall be submitted by
740 ~~set forth the respective rights of~~ the corporation to the
741 Governor's Energy Office for approval ~~and the bondholders in~~
742 ~~regard thereto.~~

743 (10) The guaranty program described in this section may be
744 used by the corporation in conjunction with any federal guaranty
745 programs described in s. 406 of the American Recovery and
746 Reinvestment Act of 2009, as may be supplemented and amended
747 from time to time. All policies and procedures or regulations of
748 the guaranty program promulgated by the corporation, to the
749 extent such guaranty program of the corporation will be used in
750 conjunction with a federal guaranty program described in s. 406
751 of the American Recovery and Reinvestment Act of 2009, shall be
752 consistent with s. 406 of the American Recovery and Reinvestment
753 Act of 2009, as may be supplemented and amended from time to
754 time.

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755 Section 7. Section 288.9608, Florida Statutes, is amended
756 to read:

757 288.9608 Creation and funding of the Energy, Technology,
758 and Economic Development Guaranty Fund guaranty account.—

759 ~~(1) The corporation shall establish a debt service reserve~~
760 ~~account which contains not less than 6 months' debt service~~
761 ~~reserves from the proceeds of the sale of any bonds guaranteed~~
762 ~~by the corporation. Funds in such debt service reserve account~~
763 ~~shall be used prior to funds in the Revenue Bond Guaranty~~
764 ~~Reserve Account established in subsection (2). The corporation~~
765 ~~shall make best efforts to liquidate collateralized property and~~
766 ~~draw upon personal guarantees, and shall utilize the Revenue~~
767 ~~Bond Guaranty Reserve Account prior to use of supplemental~~
768 ~~funding for the Guaranty Reserve Account under the provisions of~~
769 ~~subsection (3).~~

770 (1)(2)(a) The corporation shall establish an account known
771 as the Energy, Technology, and Economic Development Revenue Bond
772 Guaranty Reserve Account, the Guaranty Fund. The corporation is
773 authorized to shall deposit moneys a sum of money or other cash
774 equivalents into this fund and maintain a balance in this fund,
775 from general revenue funds of the state as may be authorized for
776 such purpose, or any other designated funding sources not
777 inconsistent with state law sources other than the State
778 Transportation Trust Fund, not less than a sum equal to 1 year
779 of maximum debt service on all outstanding bonds, or portions
780 thereof, of the corporation for which a guaranty has been issued
781 pursuant to ss. 288.9606, 288.9607, and 288.9608.

782 (2)(b) If the corporation determines that the moneys in the
783 guaranty agreement fund are not sufficient to meet the

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784 obligations of the guaranty agreement fund, the corporation is
785 authorized to use the necessary amount of any available moneys
786 that it may have which are not needed for, then or in the
787 foreseeable future, or committed to other authorized functions
788 and purposes of the corporation. Any such moneys so used may be
789 reimbursed out of the guaranty agreement fund if and when there
790 are moneys therein available for the purpose.

791 (3)(e) The determination of when additional moneys will be
792 needed for the guaranty agreement fund, the amounts that will be
793 needed, and the availability or unavailability of other moneys
794 shall be made solely by the corporation in the exercise of its
795 discretion. ~~However, supplemental funding for the Guaranty Fund~~
796 ~~as described in subsection (3) shall be made in accordance with~~
797 ~~the investment agreement of the corporation and the Department~~
798 ~~of Transportation and the State Board of Administration.~~

799 ~~(3)(a) If the corporation determines that the funds in the~~
800 ~~Guaranty Fund will not be sufficient to meet the present or~~
801 ~~reasonably projected obligations of the Guaranty Fund, due to a~~
802 ~~default on a loan made by the corporation from the proceeds of a~~
803 ~~bond issued by the corporation which is guaranteed pursuant to~~
804 ~~s. 288.9607(7), no later than 90 days before amortization~~
805 ~~payments are due on such bonds, the corporation shall notify the~~
806 ~~Secretary of Transportation and the State Board of~~
807 ~~Administration of the amount of funds required to meet, as and~~
808 ~~when due, all amortization payments for which the Guaranty Fund~~
809 ~~is obligated. The Secretary of Transportation shall immediately~~
810 ~~notify the Speaker of the House of Representatives, the~~
811 ~~President of the Senate, and the chairs of the Senate and House~~
812 ~~Committees on Appropriations of the amount of funds required,~~

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813 ~~and the projected impact on each affected year of the adopted~~
814 ~~work program of the Department of Transportation.~~

815 ~~(b) Within 30 days of the receipt of notification from the~~
816 ~~corporation, the Department of Transportation shall submit a~~
817 ~~budget amendment request to the Executive Office of the Governor~~
818 ~~pursuant to chapter 216, to increase budget authority to carry~~
819 ~~out the purposes of this section. Upon approval of said~~
820 ~~amendment, the department shall proceed to amend the adopted~~
821 ~~work program, if necessary, in accordance with the amendment.~~
822 ~~Within 60 days of the receipt of notification, and subject to~~
823 ~~approval of the budget authority, the Secretary of~~
824 ~~Transportation shall transfer, subject to the amount available~~
825 ~~from the source described in paragraph (c), the amount of funds~~
826 ~~requested by the corporation required to meet, as and when due,~~
827 ~~all amortization payments for which the Guaranty Fund is~~
828 ~~obligated. Any moneys so transferred shall be reimbursed to the~~
829 ~~Department of Transportation, with interest at the rate earned~~
830 ~~on investment by the State Treasury, from the funds available in~~
831 ~~the Guaranty Fund or as otherwise available to the corporation.~~

832 ~~(c) Pursuant to s. 288.9607(7), the Secretary of~~
833 ~~Transportation and the State Board of Administration may make~~
834 ~~available for transfer to the Guaranty Fund, earnings accrued~~
835 ~~and collected upon the investment of the minimum balance of~~
836 ~~funds required to be maintained in the State Transportation~~
837 ~~Trust Fund. However, the earnings accrued and collected upon the~~
838 ~~investment of the minimum balance of funds required to be~~
839 ~~maintained in the State Transportation Trust Fund which shall be~~
840 ~~subject to transfer shall be limited to those earnings accrued~~
841 ~~and collected on the investment of the minimum balance of funds~~

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842 ~~required to be maintained in the State Transportation Trust Fund~~
843 ~~for the fiscal year in which the notification is received by the~~
844 ~~secretary and fiscal years thereafter.~~

845 ~~(4) If the corporation receives supplemental funding for~~
846 ~~the Guaranty Fund under the provisions of this section, then any~~
847 ~~proceeds received by the corporation with respect to a loan in~~
848 ~~default, including proceeds from the sale of collateral for such~~
849 ~~loan, enforcement of personal guarantees or other pledges to the~~
850 ~~corporation to secure such loan, shall first be applied to the~~
851 ~~obligation of the corporation to repay the Department of~~
852 ~~Transportation pursuant to this section. Until such repayment is~~
853 ~~complete, no new bonds may be guaranteed pursuant to this~~
854 ~~section.~~

855 ~~(5) Prior to the use of the guaranty provided in this~~
856 ~~section, and on an annual basis, the corporation must certify in~~
857 ~~writing to the State Board of Administration and the Secretary~~
858 ~~of Transportation that it has fully implemented the requirements~~
859 ~~of this section and s. 288.9607 and the regulations of the~~
860 ~~corporation.~~

861 Section 8. Section 288.9609, Florida Statutes, is amended
862 to read:

863 288.9609 Bonds as legal investments.—All banks, trust
864 companies, bankers, savings banks and institutions, building and
865 loan associations, savings and loan associations, investment
866 companies, and other persons carrying on a banking and
867 investment business; all insurance companies, insurance
868 associations, and other persons carrying on an insurance
869 business; and all executors, administrators, curators, trustees,
870 and other fiduciaries may legally invest any sinking funds,

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871 moneys, or other funds belonging to them or within their control
872 in any bonds or other obligations issued by the corporation
873 ~~pursuant to an interlocal agreement with a public agency of this~~
874 ~~state.~~ Such bonds and obligations shall be authorized security
875 for all public deposits. It is the purpose of this section to
876 authorize all persons, political subdivisions, and officers,
877 public and private, to use any funds owned or controlled by them
878 for the purchase of any such bonds or other obligations. Nothing
879 contained in this section with regard to legal investments shall
880 be construed as relieving any person of any duty of exercising
881 reasonable care in selecting securities.

882 Section 9. Section 288.9610, Florida Statutes, is amended
883 to read:

884 288.9610 Annual reports of Florida Development Finance
885 Corporation.—By December 1 of each year, the Florida Development
886 Finance Corporation shall submit to the Governor, the President
887 of the Senate, the Speaker of the House of Representatives, the
888 Senate Minority Leader and, the House Minority Leader, ~~and the~~
889 ~~city or county activating the Florida Development Finance~~
890 ~~Corporation~~ a complete and detailed report setting forth:

- 891 (1) The evaluation required in s. 11.45(3)(j).
- 892 (2) The operations and accomplishments of the Florida
893 Development Finance Corporation, including the number of
894 businesses assisted by the corporation.
- 895 (3) Its assets and liabilities at the end of its most
896 recent fiscal year, including a description of all of its
897 outstanding revenue bonds.

898 Section 10. Subsection (1) of section 366.02, Florida
899 Statutes, is amended to read:

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900 366.02 Definitions.—As used in this chapter:

901 (1) "Public utility" means every person, corporation,
902 partnership, association, or other legal entity and their
903 lessees, trustees, or receivers supplying electricity or gas
904 (natural, manufactured, or similar gaseous substance) to or for
905 the public within this state; but the term "public utility" does
906 not include either a cooperative now or hereafter organized and
907 existing under the Rural Electric Cooperative Law of the state;
908 a municipality or any agency thereof; any dependent or
909 independent special natural gas district; any natural gas
910 transmission pipeline company making only sales or
911 transportation delivery of natural gas at wholesale and to
912 direct industrial consumers; any entity selling or arranging for
913 sales of natural gas which neither owns nor operates natural gas
914 transmission or distribution facilities within the state; or a
915 person supplying liquefied petroleum gas, in either liquid or
916 gaseous form, irrespective of the method of distribution or
917 delivery, or owning or operating facilities beyond the outlet of
918 a meter through which natural gas is supplied for compression
919 and delivery into motor vehicle fuel tanks or other
920 transportation containers, unless such person also supplies
921 electricity or manufactured or natural gas. In addition, the
922 term "public utility" does not include a developer of a solar
923 energy generation facility located on the premises of a host
924 consumer, other than a multifamily residential building, for
925 purposes of sale to the host consumer for consumption on the
926 premises only and limited to contiguous property owned or leased
927 by the consumer, if the solar energy generation facility has a
928 gross power rating of no greater than 2 megawatts.

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929 Section 11. Section 366.91, Florida Statutes, is amended to
930 read:

931 366.91 Renewable energy.—

932 (1) The Legislature finds that ~~it is in the public interest~~
933 ~~to promote the development of renewable energy resources in this~~
934 ~~state.~~ renewable energy resources have the potential to help
935 diversify fuel types to mitigate meet Florida's growing
936 dependency on natural gas for electric production, minimize the
937 volatility of fuel costs, encourage investment within the state,
938 preserve and create jobs, improve environmental conditions,
939 displace and reduce the consumption of fossil fuels in the
940 generation of electricity, and make Florida a leader in new and
941 innovative technologies.

942 (2) The Legislature further finds and declares that:

943 (a) It is in the public interest to vigorously promote the
944 production of renewable energy within the state;

945 (b) There is a current and ongoing need for electricity
946 generated from renewable energy resources;

947 (c) Based on analysis of past, current, and future
948 projections of retail electric rates, there is a high degree of
949 correlation between retail electric rates of Florida public
950 utilities and avoided cost; and

951 (d) This section shall be liberally construed in order to
952 robustly promote and encourage the production of renewable
953 energy in Florida.

954 (3)-(2) As used in this section, the term:

955 (a) "Biomass" means a power source that is comprised of,
956 but not limited to, combustible residues or gases from forest
957 products manufacturing, waste, byproducts, or products from

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958 agricultural and orchard crops, waste or coproducts from
959 livestock and poultry operations, waste or byproducts from food
960 processing, urban wood waste, municipal solid waste, municipal
961 liquid waste treatment operations, and landfill gas.

962 (b) "Customer-owned renewable generation" means any and all
963 ~~an~~ electric generating system or systems located on a customer's
964 premises that ~~is primarily intended to~~ offset part or all of the
965 customer's electricity requirements with renewable energy.

966 (c) "Net metering" means a metering and billing methodology
967 whereby a renewable energy producer that is a consumer of
968 electricity at a single location, or at multiple locations
969 within a single public utility's service area, and that operates
970 customer-owned renewable generation, is entitled: ~~customer-owned~~
971 ~~renewable generation is allowed to offset the customer's~~
972 ~~electricity consumption on site.~~

973 1. To use electricity delivered to such utility to offset
974 the electric energy and demand based charges, including all
975 adjustment, recovery, and similar such add-on charges, for which
976 it is billed by the public utility during each billing period;
977 and

978 2. To designate the amount or amounts to be offset at each
979 metering point.

980 (d) "Renewable energy" means electrical energy produced
981 from a method that uses one or more of the following fuels or
982 energy sources: hydrogen produced from sources other than fossil
983 fuels, biomass, solar energy, geothermal energy, wind energy,
984 ocean energy, and hydroelectric power. The term includes the
985 alternative energy resource, waste heat, from sulfuric acid
986 manufacturing operations, and electrical energy produced using

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987 pipeline-quality synthetic gas produced from waste petroleum
988 coke with carbon capture and sequestration.

989 (4) (a) ~~(3)~~ On or before July 1, 2010 January 1, 2006, each
990 public utility must continuously offer to and shall a purchase
991 contract to producers of renewable energy at full avoided cost,
992 as defined in subsection (7), upon request of a renewable energy
993 producer that meets one or both of the operating requirements
994 set forth in subsection (6). The commission may ~~shall~~ establish
995 by rule requirements relating to the purchase of renewable
996 energy capacity and energy by public utilities from renewable
997 energy producers and may adopt rules to administer this section.
998 The contract shall contain payment provisions for energy and
999 capacity which are based upon the utility's full avoided costs,
1000 as defined in s. 366.051; however, capacity payments are not
1001 required if, due to the operational characteristics of the
1002 renewable energy generator or the anticipated peak and off-peak
1003 availability and capacity factor of the utility's avoided unit,
1004 the producer is unlikely to provide any capacity value to the
1005 utility or the electric grid during the contract term. Each
1006 contract must provide a contract term of at least 10 years.

1007 Prudent and reasonable costs associated with the purchase of a
1008 renewable energy contract shall be recoverable recovered
1009 from the ratepayers of the purchasing contracting utility, without
1010 differentiation among customer classes, through the appropriate
1011 cost-recovery clause mechanism administered by the commission.

1012 (b) Effective July 1, 2010, a renewable energy producer
1013 that meets one or both of the operation requirements set forth
1014 in subsection (6) shall be entitled to sell electric energy to a
1015 public utility at full avoided cost as set forth in subsection

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1016 (7).

1017 (5)~~(4)~~ On or before January 1, 2006, each municipal
1018 electric utility and rural electric cooperative whose annual
1019 sales, as of July 1, 1993, to retail customers were greater than
1020 2,000 gigawatt hours must continuously offer a purchase contract
1021 to producers of renewable energy containing payment provisions
1022 for energy and capacity which are based upon the utility's or
1023 cooperative's full avoided costs, as determined by the governing
1024 body of the municipal utility or cooperative; however, capacity
1025 payments are not required if, due to the operational
1026 characteristics of the renewable energy generator or the
1027 anticipated peak and off-peak availability and capacity factor
1028 of the utility's avoided unit, the producer is unlikely to
1029 provide any capacity value to the utility or the electric grid
1030 during the contract term. Each contract must provide a contract
1031 term of at least 10 years.

1032 (6) Operating requirements:

1033 (a) A renewable energy producer that generates and delivers
1034 to the grid a fixed amount of electrical capacity at a rate of
1035 production, such that the amount of energy produced per 1
1036 megawatt of fixed capacity is 7,000 megawatt hours or more per
1037 year shall be entitled to sell such fixed amount of capacity and
1038 energy to any public utility at full avoided costs.

1039 (b) A renewable energy producer that generates electric
1040 energy using waste heat from sulfuric acid manufacturing
1041 operations, such that the amount of electric energy produced at
1042 the site per 1 megawatt of system generating capacity is 5,500
1043 megawatt hours or more per year and that exports less than 50
1044 percent of the total electric energy produced to the grid, shall

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1045 be entitled to sell any excess energy, up to an amount equal to
1046 the energy used to serve its own requirements, to any public
1047 utility at full avoided cost.

1048 (7) It has been found and determined that 80 percent of the
1049 weighted average of firm service retail electric rates of each
1050 public utility, including all adjustment, recovery, and similar
1051 such add-on charges, directly correlates with each utility's
1052 full avoided cost for acquiring energy from renewable energy
1053 producers that meet the operating requirements of subsection
1054 (6), and is an administratively efficient, transparent, prudent,
1055 and preferred methodology for calculating full avoided cost. The
1056 full avoided cost to which all renewable energy producers are
1057 entitled is and shall be the mathematical product of 0.80 and
1058 the weighted average of firm service retail electric rates in
1059 cents per kilowatt hour, including all adjustment, recovery, and
1060 similar such add-on charges, of the purchasing utility.

1061 (8)~~(5)~~ On or before January 1, 2009, each public utility
1062 shall develop a standardized interconnection agreement and net
1063 metering program for all customer-owned renewable generation.
1064 The commission shall establish requirements relating to the
1065 expedited interconnection and net metering of customer-owned
1066 renewable generation by public utilities and may adopt rules to
1067 administer this section.

1068 (9)~~(6)~~ On or before July 1, 2009, each municipal electric
1069 utility and each rural electric cooperative that sells
1070 electricity at retail shall develop a standardized
1071 interconnection agreement and net metering program for customer-
1072 owned renewable generation. Each governing authority shall
1073 establish requirements relating to the expedited interconnection

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1074 and net metering of customer-owned generation. By April 1 of
1075 each year, each municipal electric utility and rural electric
1076 cooperative utility serving retail customers shall file a report
1077 with the commission detailing customer participation in the
1078 interconnection and net metering program, including, but not
1079 limited to, the number and total capacity of interconnected
1080 generating systems and the total energy net metered in the
1081 previous year.

1082 (10)~~(7)~~ Under the provisions of subsections (8) and (9) ~~(5)~~
1083 and ~~(6)~~, when a utility purchases power generated from biogas
1084 produced by the anaerobic digestion of agricultural waste,
1085 including food waste or other agricultural byproducts, net
1086 metering shall be available at a single metering point or as a
1087 part of conjunctive billing of multiple points for a customer at
1088 a single location, so long as the provision of such service and
1089 its associated charges, terms, and other conditions are not
1090 reasonably projected to result in higher cost electric service
1091 to the utility's general body of ratepayers or adversely affect
1092 the adequacy or reliability of electric service to all
1093 customers, as determined by the commission for public utilities,
1094 or as determined by the governing authority of the municipal
1095 electric utility or rural electric cooperative that serves at
1096 retail.

1097 (11)~~(8)~~ A ~~contracting producer of~~ renewable energy producer
1098 must pay the actual costs of its interconnection with the
1099 transmission grid or distribution system.

1100 (12) Action by the commission pursuant to or associated
1101 with implementing this section shall not be deemed or construed
1102 to be an action relating to rates or service of utilities

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1103 providing electric service.

1104 Section 12. Section 366.92, Florida Statutes, is amended to
1105 read:

1106 366.92 Florida renewable energy policy.—

1107 (1) It is the intent of the Legislature to promote the
1108 development of renewable energy; protect the economic viability
1109 of Florida's existing renewable energy facilities; diversify the
1110 types of fuel used to generate electricity in Florida; lessen
1111 Florida's dependence on natural gas and fuel oil for the
1112 production of electricity; minimize the volatility of fuel
1113 costs; encourage investment within the state; improve
1114 environmental conditions; and, at the same time, minimize the
1115 costs of power supply to electric utilities and their customers.

1116 (2) As used in this section, the term:

1117 (a) "Florida renewable energy resources" means renewable
1118 energy, as defined in s. 377.803, that is produced in Florida.

1119 (b) "Provider" means a "utility" as defined in s.
1120 366.8255(1)(a).

1121 (c) "Renewable energy" means renewable energy as defined in
1122 s. 366.91(2)(d).

1123 ~~(d) "Renewable energy credit" or "REC" means a product that~~
1124 ~~represents the unbundled, separable, renewable attribute of~~
1125 ~~renewable energy produced in Florida and is equivalent to 1~~
1126 ~~megawatt-hour of electricity generated by a source of renewable~~
1127 ~~energy located in Florida.~~

1128 ~~(e) "Renewable portfolio standard" or "RPS" means the~~
1129 ~~minimum percentage of total annual retail electricity sales by a~~
1130 ~~provider to consumers in Florida that shall be supplied by~~
1131 ~~renewable energy produced in Florida.~~

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1132 ~~(3) The commission shall adopt rules for a renewable~~
1133 ~~portfolio standard requiring each provider to supply renewable~~
1134 ~~energy to its customers directly, by procuring, or through~~
1135 ~~renewable energy credits. In developing the RPS rule, the~~
1136 ~~commission shall consult the Department of Environmental~~
1137 ~~Protection and the Florida Energy and Climate Commission. The~~
1138 ~~rule shall not be implemented until ratified by the Legislature.~~
1139 ~~The commission shall present a draft rule for legislative~~
1140 ~~consideration by February 1, 2009.~~

1141 ~~(a) In developing the rule, the commission shall evaluate~~
1142 ~~the current and forecasted levelized cost in cents per kilowatt~~
1143 ~~hour through 2020 and current and forecasted installed capacity~~
1144 ~~in kilowatts for each renewable energy generation method through~~
1145 ~~2020.~~

1146 ~~(b) The commission's rule:~~

1147 ~~1. Shall include methods of managing the cost of compliance~~
1148 ~~with the renewable portfolio standard, whether through direct~~
1149 ~~supply or procurement of renewable power or through the purchase~~
1150 ~~of renewable energy credits. The commission shall have~~
1151 ~~rulemaking authority for providing annual cost recovery and~~
1152 ~~incentive-based adjustments to authorized rates of return on~~
1153 ~~common equity to providers to incentivize renewable energy.~~
1154 ~~Notwithstanding s. 366.91(3) and (4), upon the ratification of~~
1155 ~~the rules developed pursuant to this subsection, the commission~~
1156 ~~may approve projects and power sales agreements with renewable~~
1157 ~~power producers and the sale of renewable energy credits needed~~
1158 ~~to comply with the renewable portfolio standard. In the event of~~
1159 ~~any conflict, this subparagraph shall supersede s. 366.91(3) and~~
1160 ~~(4). However, nothing in this section shall alter the obligation~~

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1161 ~~of each public utility to continuously offer a purchase contract~~
1162 ~~to producers of renewable energy.~~

1163 ~~2. Shall provide for appropriate compliance measures and~~
1164 ~~the conditions under which noncompliance shall be excused due to~~
1165 ~~a determination by the commission that the supply of renewable~~
1166 ~~energy or renewable energy credits was not adequate to satisfy~~
1167 ~~the demand for such energy or that the cost of securing~~
1168 ~~renewable energy or renewable energy credits was cost~~
1169 ~~prohibitive.~~

1170 ~~3. May provide added weight to energy provided by wind and~~
1171 ~~solar photovoltaic over other forms of renewable energy, whether~~
1172 ~~directly supplied or procured or indirectly obtained through the~~
1173 ~~purchase of renewable energy credits.~~

1174 ~~4. Shall determine an appropriate period of time for which~~
1175 ~~renewable energy credits may be used for purposes of compliance~~
1176 ~~with the renewable portfolio standard.~~

1177 ~~5. Shall provide for monitoring of compliance with and~~
1178 ~~enforcement of the requirements of this section.~~

1179 ~~6. Shall ensure that energy credited toward compliance with~~
1180 ~~the requirements of this section is not credited toward any~~
1181 ~~other purpose.~~

1182 ~~7. Shall include procedures to track and account for~~
1183 ~~renewable energy credits, including ownership of renewable~~
1184 ~~energy credits that are derived from a customer-owned renewable~~
1185 ~~energy facility as a result of any action by a customer of an~~
1186 ~~electric power supplier that is independent of a program~~
1187 ~~sponsored by the electric power supplier.~~

1188 ~~8. Shall provide for the conditions and options for the~~
1189 ~~repeal or alteration of the rule in the event that new~~

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1190 ~~provisions of federal law supplant or conflict with the rule.~~

1191 ~~(c) Beginning on April 1 of the year following final~~
1192 ~~adoption of the commission's renewable portfolio standard rule,~~
1193 ~~each provider shall submit a report to the commission describing~~
1194 ~~the steps that have been taken in the previous year and the~~
1195 ~~steps that will be taken in the future to add renewable energy~~
1196 ~~to the provider's energy supply portfolio. The report shall~~
1197 ~~state whether the provider was in compliance with the renewable~~
1198 ~~portfolio standard during the previous year and how it will~~
1199 ~~comply with the renewable portfolio standard in the upcoming~~
1200 ~~year.~~

1201 ~~(3) (a) (4) In order to demonstrate the feasibility and~~
1202 ~~viability of clean energy systems,~~ The commission shall provide
1203 for full cost recovery under the environmental cost-recovery
1204 clause of all reasonable and prudent costs incurred by a
1205 provider for renewable energy projects that result in a net
1206 decrease of ~~are zero~~ greenhouse gas emitted in this state
1207 ~~emitting at the point of generation, up to a total of 110~~
1208 ~~megawatts statewide,~~ and for which the provider has secured
1209 necessary land, zoning permits, and transmission rights within
1210 the state.

1211 ~~(b) Such costs shall be deemed reasonable and prudent for~~
1212 ~~purposes of cost recovery so long as the provider has~~ obtained
1213 approval for the renewable energy project pursuant to s. 366.921
1214 ~~used reasonable and customary industry practices in the design,~~
1215 ~~procurement, and construction of the project in a cost-effective~~
1216 ~~manner appropriate to the location of the facility.~~ The provider
1217 shall report to the commission as part of the cost-recovery
1218 proceedings the construction costs, in-service costs, operating

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1219 and maintenance costs, hourly energy production of the renewable
1220 energy project, and any other information deemed relevant by the
1221 commission. ~~Any provider constructing a clean energy facility~~
1222 ~~pursuant to this section shall file for cost recovery no later~~
1223 ~~than July 1, 2009.~~

1224 (4) Pursuant to the approval process under s. 366.921, the
1225 commission shall approve up to a total of 700 megawatts of
1226 renewable energy projects for the years 2010, 2011, and 2012,
1227 with up to a total of 300 megawatts approved in 2010 and up to
1228 an additional 200 megawatts approved annually in 2011 and 2012,
1229 as part of new renewable energy projects and an additional 35
1230 megawatts, with up to 5 megawatts for hydroelectric application
1231 for 2010, and up to 10 megawatts annually for 2010, 2011, and
1232 2012, for rooftop or pole-mounted solar energy applications in
1233 addition to megawatts attributable to renewable energy projects
1234 approved by the commission for cost recovery before January 1,
1235 2010. Any megawatts for renewable energy projects designated for
1236 approval for a specific year that remain available at the end of
1237 the calendar year shall be carried forward to the succeeding
1238 year. Notwithstanding s. 403.519, the Legislature finds that
1239 there is need for these renewable energy resources. This
1240 legislative finding shall serve as the need determination
1241 required under s. 403.519 and as the commission's agency report
1242 under s. 403.507(4) (a).

1243 (5) Of the 700 megawatts of renewable energy projects set
1244 forth in subsection (4), the commission shall provide for full
1245 cost recovery under the environmental cost-recovery clause for
1246 any renewable energy purchased from a qualifying facility and
1247 produced from small-scale renewable energy generation in size

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1248 from 1 kilowatt to 2 megawatts of up to 75 megawatts statewide
1249 for the year 2011, 50 megawatts for the year 2012, and 50
1250 megawatts for the year 2013. Such costs shall be deemed
1251 reasonable and prudent for purposes of cost recovery if the
1252 commission adopts rules establishing reasonable costs associated
1253 with harvesting and generating various renewable energy fuel
1254 types and provides a suitable return for producers. The rules
1255 must establish differentiated rates for purchase of various
1256 renewable energy fuel types based on the fuel type technology. A
1257 provider or producer of renewable energy fuel that is a
1258 regulated utility or its unregulated affiliates is not eligible
1259 to participate in the program as provided in this subsection. An
1260 eligible qualifying facility must be located within the
1261 territory served by a participating electric utility. The
1262 commission shall issue a qualifying facility certificate of
1263 eligibility within 30 days after receipt of an application for a
1264 producer's small scale biomass, solar, or wind energy facility,
1265 and if accompanied by proof that the applicant holds a current
1266 qualifying facility federal designation and an application fee
1267 not to exceed \$250.

1268 (6) (a) A developer of solar energy generation may locate a
1269 solar energy generation facility on the premises of a host
1270 consumer, other than a multifamily residential building, for
1271 purposes of sale to the consumer for consumption on the premises
1272 only, if the solar energy generation facility has a gross power
1273 rating of no greater than 2 megawatts. For purposes of this
1274 subsection, the host consumer's premises shall be limited to
1275 contiguous property owned or leased by the consumer, without
1276 regard to interruptions in contiguity caused by easements,

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1277 public thoroughfares, transportation rights-of-way, or utility
1278 rights-of-way.

1279 (b) The commission shall adopt rules to administer this
1280 subsection. In adopting such rules, the commission shall
1281 establish, at a minimum:

1282 1. Requirements related to interconnection and metering;

1283 2. A mechanism for setting rates for any service provided
1284 to the consumer by the utility if such service is required by
1285 the consumer, which rates shall ensure that the utility's
1286 general body of ratepayers do not subsidize any redundant
1287 utility generating capacity necessary to serve the consumer; and

1288 3. Requirements for notice to the commission of the size
1289 and location of each renewable energy generation facility
1290 planned under this subsection, the identity and historical and
1291 projected load characteristics of each host consumer, and any
1292 other information deemed necessary by the commission to satisfy
1293 its obligations under s. 364.04(5).

1294 (c) Beginning January 1, 2011, and no less often than every
1295 6 months thereafter, the commission shall provide a report to
1296 the Legislature of the activity under this subsection, which
1297 shall address the impacts of such activity on the electric power
1298 grid of the state, individual utility systems, and each
1299 utility's general body of ratepayers, and shall include
1300 recommendations concerning implementation of this program.

1301 (7) In order to further promote renewable energy, need
1302 determination pursuant to s. 403.519 is not required if a
1303 renewable energy generating facility:

1304 (a) Had a pending site certification application seeking
1305 approval for up to 100 net megawatts of renewable energy

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1306 projects on or before December 31, 2009; or

1307 (b) Files a site certification application before January
1308 1, 2011, for an expansion of an existing renewable energy
1309 electric generating facility, subject to a total of up to 200
1310 net megawatts statewide, which is owned by a local governmental
1311 entity.

1312 (8)~~(5)~~ Each municipal electric utility and rural electric
1313 cooperative shall develop standards for the promotion,
1314 encouragement, and expansion of the use of renewable energy
1315 resources and energy conservation and efficiency measures. On or
1316 before April 1, 2009, and annually thereafter, each municipal
1317 electric utility and electric cooperative shall submit to the
1318 commission a report that identifies such standards.

1319 (9)~~(6)~~ ~~Nothing in This section does not shall be construed~~
1320 ~~to~~ impede or impair terms and conditions of existing contracts.

1321 (10) Revenues derived from any renewable energy credit,
1322 carbon credit, or other mechanism that attributes value to the
1323 production of renewable energy, either existing or hereafter
1324 devised, received by a provider by virtue of the production or
1325 purchase of renewable energy for which cost recovery is approved
1326 under this subsection, shall be shared with the provider's
1327 ratepayers such that the ratepayers are credited no less than 75
1328 percent of such revenues.

1329 (11)~~(7)~~ The commission may adopt rules to administer and
1330 implement the provisions of this section.

1331 Section 13. Section 366.921, Florida Statutes, is created
1332 to read:

1333 366.921 Renewable energy; approval process.—

1334 (1) Providers of renewable energy under s. 366.92(4) must

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1335 acquire commission approval before the construction, licensing,
1336 and operation of a facility producing such resources or the
1337 purchase of capacity or energy from a facility producing such
1338 resources.

1339 (2) Upon the filing by a provider of a petition for
1340 approval of a facility, the commission shall schedule a formal
1341 administrative hearing within 10 days after the filing of the
1342 petition and vote on the petition within 90 days after such
1343 filing.

1344 (3) (a) In determining whether to approve the petition, the
1345 commission shall consider whether the:

1346 1. Proposal for the facility requires the use of reasonable
1347 and customary industry practices in the design, engineering,
1348 procurement, and construction of the project in a cost-effective
1349 manner appropriate to the proposed technology and location of
1350 the facility.

1351 2. Entity, including a provider, which would engineer,
1352 design, and construct the proposed facility has the requisite
1353 technical and financial qualifications, expertise, and
1354 capability.

1355 3. Entity, including a provider, which would operate the
1356 proposed facility has the requisite technical qualifications,
1357 expertise, and capability.

1358 4. Provider has submitted the project for competitive bid
1359 to ensure that it is the most cost-effective alternative that
1360 meets the criteria of this section and that the projected costs
1361 are reasonable and prudent for this type of project.

1362 5. Proposal includes mechanisms to keep costs from
1363 increasing above the projected amount.

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1364 6. Any new or converted generating facility that uses woody
1365 biomass as its fuel stock shall ensure that a minimum of 85
1366 percent of such fuel stock is supplied from urban wood waste,
1367 logging residuals, and short-rotation energy crops. The
1368 commission may not approve costs for recovery without ensuring
1369 that this fuel stock limit is met.

1370 (b) As used in this subsection, the term:

1371 1. "Short-rotation energy crops" means plant species whose
1372 rotation from planting to harvest is 8 years or less and
1373 generally include eucalyptus, poplar, energy cane, elephant
1374 grass, switch grass, or other fast-growing plants.

1375 2. "Woody biomass" means woody material and wood residues
1376 of all types.

1377 (4) The commission's final order approving a facility shall
1378 include express authorization for annual cost recovery pursuant
1379 to ss. 366.8255 and 366.92 of the costs determined under this
1380 section. However, under no circumstances may the total costs of
1381 all projects approved under this section for any provider result
1382 in a retail price increase in excess of an amount equal to \$1
1383 per 1,000 kilowatt hours.

1384 Section 14. Subsection (14) of section 403.503, Florida
1385 Statutes, is amended to read:

1386 403.503 Definitions relating to Florida Electrical Power
1387 Plant Siting Act.—As used in this act:

1388 (14) "Electrical power plant" means, for the purpose of
1389 certification, any steam ~~or solar~~ electrical generating facility
1390 using any process or fuel, including nuclear materials, except
1391 that this term does not include any steam ~~or solar~~ electrical
1392 generating facility of less than 75 megawatts in capacity or any

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1393 solar electrical or hydroelectric generating facility of any
1394 sized capacity unless the applicant for such a facility elects
1395 to apply for certification under this act. This term also
1396 includes the site; all associated facilities that will be owned
1397 by the applicant that are physically connected to the site; all
1398 associated facilities that are indirectly connected to the site
1399 by other proposed associated facilities that will be owned by
1400 the applicant; and associated transmission lines that will be
1401 owned by the applicant which connect the electrical power plant
1402 to an existing transmission network or rights-of-way to which
1403 the applicant intends to connect. At the applicant's option,
1404 this term may include any offsite associated facilities that
1405 will not be owned by the applicant; offsite associated
1406 facilities that are owned by the applicant but that are not
1407 directly connected to the site; any proposed terminal or
1408 intermediate substations or substation expansions connected to
1409 the associated transmission line; or new transmission lines,
1410 upgrades, or improvements of an existing transmission line on
1411 any portion of the applicant's electrical transmission system
1412 necessary to support the generation injected into the system
1413 from the proposed electrical power plant.

1414 Section 15. Any competitively procured purchased power
1415 agreement for solar power which is voluntarily executed by an
1416 investor-owned utility on or before March 1, 2009, shall be
1417 presumed prudently incurred and the costs exceeding the
1418 utility's full avoided costs for the purchased power shall be
1419 recoverable through the environmental cost-recovery clause if:

1420 (1) A petition for approval of the purchased power
1421 agreement was filed with the Public Service Commission on or

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1422 before April 1, 2009;

1423 (2) The solar energy provider meets all the requirements of
1424 the Federal Energy Regulatory Commission and applicable utility
1425 requirements for interconnection with the public utility
1426 transmission system;

1427 (3) The solar generating facility is located in Florida;
1428 and

1429 (4) The investor-owned utility is entitled to all
1430 environmental attributes associated with the solar energy
1431 generation.

1432
1433 The commission shall immediately consider and approve such
1434 agreements.

1435 Section 16. This act shall take effect upon becoming a law.