

1 A bill to be entitled
2 An act relating to renewable energy; amending s. 212.08,
3 F.S.; requiring that solar energy systems have a certain
4 percentage of components manufactured in Florida or the
5 United States in order to be eligible for the exemption
6 from the sales tax; amending s. 220.192, F.S.; extending
7 the date of eligibility for the renewable energy
8 technologies investment tax credit; revising the annual
9 limits for the investment tax credits; defining the term
10 "solar energy system"; providing requirement for a solar
11 electric generating facility to be eligible to receive the
12 tax credit; providing for unused amounts of the tax credit
13 to be carried forward; amending s. 220.193, F.S.;
14 extending until 2017 the Florida renewable energy
15 production tax credit; amending s. 366.02, F.S.; revising
16 the exceptions to the definition of the term "public
17 utility" to include the developer of certain renewable
18 energy generation facilities; creating s. 366.90, F.S.;
19 providing legislative intent with respect to the
20 production of electricity using renewable energy; amending
21 s. 366.91, F.S.; redefining the terms "biomass," "net
22 metering," and "renewable energy"; amending s. 366.92,
23 F.S.; revising legislative intent; deleting and revising
24 definitions; deleting provisions for the renewable
25 portfolio standard and renewable energy credits; providing
26 a mechanism for providers to recover costs to produce or
27 purchase specified amounts of renewable energy through the
28 environmental cost-recovery clause under certain

29 | conditions; providing for a competitive auction; providing
30 | for recovery of certain costs; providing for terms and
31 | conditions of a standard form contract; providing criteria
32 | for development deposits; providing criteria for
33 | termination of the project; providing for required and
34 | allowable purchase of renewable energy as a percentage of
35 | the provider's total revenue; providing for minimum
36 | purchase of the various types of renewable energy;
37 | providing limits on the amount of recoverable costs;
38 | requiring certain information be provided to the Public
39 | Service Commission for cost recovery proceedings;
40 | providing conditions when a seller surrenders attributes;
41 | requiring that certain revenues received by a provider be
42 | shared with ratepayers; exempting certain renewable energy
43 | generating facilities from the Florida Electrical Power
44 | Plant Siting Act; requiring providers to submit certain
45 | information to the commission in their 10-year site plans;
46 | exempting certain expansions of existing renewable
47 | electric generating facilities from a determination of
48 | need by the commission; authorizing the developer of a
49 | solar energy generation facility to locate the facility on
50 | the premises of a host consumer under certain
51 | circumstances; requiring the commission to adopt rules and
52 | submit reports to the Legislature; exempting the expansion
53 | of existing renewable energy electric generating
54 | facilities from requirements for a determination of need
55 | under certain circumstances; amending s. 377.601, F.S.;
56 | revising legislative intent relating to the state's energy

57 policy; amending s. 377.703, F.S.; conforming cross-
 58 references; amending s. 377.809, F.S.; directing the
 59 Department of Community Affairs to implement an Energy
 60 Economic Zone Pilot Program for attracting renewable
 61 energy, energy efficiency, and biofuel technology
 62 industries to an area; requiring the Office of Tourism,
 63 Trade, and Economic Development to provide technical
 64 assistance; providing for an application process;
 65 providing criteria to grant at least one application;
 66 amending s. 403.503, F.S.; redefining the term "electrical
 67 power plant" for purposes of the Florida Electrical Power
 68 Plant Siting Act; providing for severability; providing an
 69 effective date.

70

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

72

73 Section 1. Paragraph (hh) of subsection (7) of section
 74 212.08, Florida Statutes, is amended to read:

75 212.08 Sales, rental, use, consumption, distribution, and
 76 storage tax; specified exemptions.—The sale at retail, the
 77 rental, the use, the consumption, the distribution, and the
 78 storage to be used or consumed in this state of the following
 79 are hereby specifically exempt from the tax imposed by this
 80 chapter.

81 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
 82 entity by this chapter do not inure to any transaction that is
 83 otherwise taxable under this chapter when payment is made by a
 84 representative or employee of the entity by any means,

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85 including, but not limited to, cash, check, or credit card, even
86 when that representative or employee is subsequently reimbursed
87 by the entity. In addition, exemptions provided to any entity by
88 this subsection do not inure to any transaction that is
89 otherwise taxable under this chapter unless the entity has
90 obtained a sales tax exemption certificate from the department
91 or the entity obtains or provides other documentation as
92 required by the department. Eligible purchases or leases made
93 with such a certificate must be in strict compliance with this
94 subsection and departmental rules, and any person who makes an
95 exempt purchase with a certificate that is not in strict
96 compliance with this subsection and the rules is liable for and
97 shall pay the tax. The department may adopt rules to administer
98 this subsection.

99 (hh) *Solar energy systems.*—Also exempt are solar energy
100 systems, or any component thereof, as provided in this
101 paragraph. The Florida Solar Energy Center shall from time to
102 time certify to the department a list of equipment and requisite
103 hardware considered to be a solar energy system or a component
104 thereof. A solar energy system, or component thereof, having a
105 minimum of 50 percent of its materials manufactured in Florida,
106 as measured by the cost of such materials, or a minimum of 80
107 percent of its materials manufactured in the United States, as
108 measured by the cost of such materials, is exempt from the tax
109 imposed by this chapter.

110 Section 2. Paragraphs (c), (f), and (g) of subsection (1)
111 and subsection (2) of section 220.192, Florida Statutes, are
112 amended to read:

113 220.192 Renewable energy technologies investment tax
 114 credit.—

115 (1) DEFINITIONS.—For purposes of this section, the term:

116 (c) "Eligible costs" means:

117 1. Seventy-five percent of all capital costs, operation
 118 and maintenance costs, and research and development costs
 119 incurred between July 1, 2006, and June 30, 2016 ~~2010~~, up to a
 120 limit of \$25 ~~\$3~~ million per state fiscal year for all taxpayers,
 121 in connection with an investment in hydrogen-powered vehicles
 122 and hydrogen vehicle fueling stations in the state, including,
 123 but not limited to, the costs of constructing, installing, and
 124 equipping such technologies in the state.

125 2. Seventy-five percent of all capital costs, operation
 126 and maintenance costs, and research and development costs
 127 incurred between July 1, 2006, and June 30, 2016 ~~2010~~, up to a
 128 limit of \$25 ~~\$1.5~~ million per state fiscal year for all
 129 taxpayers, and limited to a maximum of \$12,000 per fuel cell, in
 130 connection with an investment in commercial stationary hydrogen
 131 fuel cells in the state, including, but not limited to, the
 132 costs of constructing, installing, and equipping such
 133 technologies in the state.

134 3. Seventy-five percent of all capital costs, operation
 135 and maintenance costs, and research and development costs
 136 incurred between July 1, 2006, and June 30, 2016 ~~2010~~, up to a
 137 limit of \$6 ~~\$6.5~~ million per state fiscal year for all
 138 taxpayers, in connection with an investment in the production,
 139 storage, and distribution of biodiesel (B10-B100) and ethanol
 140 (E10-E100) in the state, including the costs of constructing,

141 installing, and equipping such technologies in the state.
 142 Gasoline fueling station pump retrofits for ethanol (E10-E100)
 143 distribution qualify as an eligible cost under this
 144 subparagraph.

145 4. Fifty percent of all capital costs incurred between
 146 July 1, 2010, and June 30, 2016, in connection with an
 147 investment in solar energy systems in the state, up to a limit
 148 of \$500,000 per system and up to a limit of \$250 million per
 149 state fiscal year for all taxpayers. To be eligible, such system
 150 must comply with state interconnection standards as required by
 151 the rules of the Public Service Commission. The eligible costs
 152 shall be reapportioned equally over 5 years.

153 (f) "Solar energy system" means equipment that provides
 154 for the collection and use of incident solar energy for water
 155 heating, space heating or cooling, or other applications that
 156 would normally require a conventional source of energy such as
 157 petroleum products, natural gas, or electricity that performs
 158 primarily with solar energy. In other systems in which solar
 159 energy is used in a supplemental way, only those components that
 160 collect and transfer solar energy are included in this
 161 definition.

162 (g) ~~(f)~~ "Taxpayer" includes a corporation as defined in
 163 paragraph (b) or s. 220.03.

164 (2) TAX CREDIT.—

165 (a) For tax years beginning on or after January 1, 2007, a
 166 credit against the tax imposed by this chapter shall be granted
 167 in an amount equal to the eligible costs defined in
 168 subparagraphs (1)(c)1.-3. For a solar electric generating

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169 facility to be eligible to receive the investment tax credit
170 provided by this section, the renewable energy supplier's
171 facility must be located in Florida and contain at least 60
172 percent, as a percentage of the total installed cost including
173 construction labor costs, of materials that are manufactured in
174 Florida. For other renewable electric generating facilities to
175 be eligible to receive the investment tax credit provided by
176 this section, the renewable energy supplier's facility must be
177 located in Florida and contain at least 30 percent, as a
178 percentage of the total installed cost including construction
179 labor costs, of materials that are manufactured in Florida. The
180 credits may be used in tax years beginning January 1, 2007, and
181 ending December 31, 2016 ~~2010~~, after which the credit shall
182 expire. If the credit is not fully used in any one tax year
183 because of insufficient tax liability on the part of the
184 corporation, the unused amount may be carried forward and used
185 in tax years beginning January 1, 2007, and ending December 31,
186 2018 ~~2012~~, after which the credit carryover expires and may not
187 be used. A taxpayer that files a consolidated return in this
188 state as a member of an affiliated group under s. 220.131(1) may
189 be allowed the credit on a consolidated return basis up to the
190 amount of tax imposed upon the consolidated group. Any eligible
191 cost for which a credit is claimed and which is deducted or
192 otherwise reduces federal taxable income shall be added back in
193 computing adjusted federal income under s. 220.13.

194 (b) For tax years beginning on or after January 1, 2011, a
195 credit against the tax imposed by this chapter shall be granted
196 in an amount equal to the eligible costs defined in subparagraph

197 (1) (c) 4. The credits may be used in tax years beginning January
 198 1, 2011, and ending December 31, 2016, after which the credit
 199 shall expire. If the credit is not fully used in any one tax
 200 year because of insufficient tax liability on the part of the
 201 corporation, the unused amount may be carried forward and used
 202 in tax years beginning January 1, 2010, and ending December 31,
 203 2021, after which the credit carryover expires and may not be
 204 used. A taxpayer that files a consolidated return in this state
 205 as a member of an affiliated group under s. 220.131(1) may be
 206 allowed the credit on a consolidated return basis up to the
 207 amount of tax imposed upon the consolidated group. Any eligible
 208 cost for which a credit is claimed and which is deducted or
 209 otherwise reduces federal taxable income shall be added back in
 210 computing adjusted federal income under s. 220.13.

211 Section 3. Paragraphs (b) and (g) of subsection (3) of
 212 section 220.193, Florida Statutes, are amended to read:

213 220.193 Florida renewable energy production credit.—

214 (3) An annual credit against the tax imposed by this
 215 section shall be allowed to a taxpayer, based on the taxpayer's
 216 production and sale of electricity from a new or expanded
 217 Florida renewable energy facility. For a new facility, the
 218 credit shall be based on the taxpayer's sale of the facility's
 219 entire electrical production. For an expanded facility, the
 220 credit shall be based on the increases in the facility's
 221 electrical production that are achieved after May 1, 2006.

222 (b) The credit may be claimed for electricity produced and
 223 sold on or after January 1, 2007. Beginning in 2008 and
 224 continuing until 2017 ~~2011~~, each taxpayer claiming a credit

225 | under this section must first apply to the department by
 226 | February 1 of each year for an allocation of available credit.
 227 | The department, in consultation with the commission, shall
 228 | develop an application form. The application form shall, at a
 229 | minimum, require a sworn affidavit from each taxpayer certifying
 230 | the increase in production and sales that form the basis of the
 231 | application and certifying that all information contained in the
 232 | application is true and correct.

233 | (g) Notwithstanding any other provision of this section,
 234 | credits for the production and sale of electricity from a new or
 235 | expanded Florida renewable energy facility may be earned between
 236 | January 1, 2007, and June 30, 2017 ~~2010~~. The combined total
 237 | amount of tax credits which may be granted for all taxpayers
 238 | under this section is limited to \$250 ~~\$5~~ million per state
 239 | fiscal year.

240 | Section 4. Subsection (1) of section 366.02, Florida
 241 | Statutes, is amended to read:

242 | 366.02 Definitions.—As used in this chapter:

243 | (1) "Public utility" means every person, corporation,
 244 | partnership, association, or other legal entity and their
 245 | lessees, trustees, or receivers supplying electricity or gas
 246 | (natural, manufactured, or similar gaseous substance) to or for
 247 | the public within this state. ~~;~~ ~~but~~ The term "~~public utility~~"
 248 | does not include: ~~either~~

249 | (a) A cooperative now or hereafter organized and existing
 250 | under the Rural Electric Cooperative Law of the state;

251 | (b) A municipality or any agency thereof;

252 | (c) Any dependent or independent special ~~natural gas~~

253 district, including special natural gas districts;

254 (d) Any natural gas transmission pipeline company making
 255 only sales or transportation delivery of natural gas at
 256 wholesale and to direct industrial consumers;

257 (e) Any entity selling or arranging for sales of natural
 258 gas which neither owns nor operates natural gas transmission or
 259 distribution facilities within the state; ~~or~~

260 (f) A person supplying liquefied petroleum gas, in either
 261 liquid or gaseous form, irrespective of the method of
 262 distribution or delivery, or owning or operating facilities
 263 beyond the outlet of a meter through which natural gas is
 264 supplied for compression and delivery into motor vehicle fuel
 265 tanks or other transportation containers, unless such person
 266 also supplies electricity or manufactured or natural gas; ~~or-~~

267 (g) The developer of a renewable energy generation
 268 facility that has an aggregate gross power rating of 5
 269 megawatts, measured on an alternating current basis, or less;
 270 that is located on the premises of a host consumer or group of
 271 host consumers, including, without limitation, residential,
 272 commercial, industrial, institutional, or agricultural host
 273 customers located on the same or contiguous property, all
 274 subject to the aggregate gross power limitation; and that
 275 supplies electricity exclusively for sale to the host consumer
 276 or consumers for consumption on the premises only and contiguous
 277 property owned or leased by the host consumer or consumers,
 278 regardless of interruptions in contiguity caused by easements,
 279 public thoroughfares, transportation rights-of-way, or utility
 280 rights-of-way.

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281 Section 5. Section 366.90, Florida Statutes, is created to
 282 read:

283 366.90 Renewable energy for electricity production.—In
 284 furtherance of the energy policy goals established in s.
 285 377.601, the Legislature finds that it is in the public interest
 286 to promote the development of renewable energy resources in the
 287 state, for purposes of electricity production, through the
 288 provisions of ss. 366.91 and 366.92. The Legislature further
 289 finds that renewable energy resources have the potential to help
 290 diversify fuel types to alleviate the state's growing dependence
 291 on natural gas and other fossil fuels for the production of
 292 electricity, minimize the volatility of fuel costs, encourage
 293 investment within the state, promote the state's energy
 294 independence and long-term economic and environmental
 295 sustainability, reduce the net outflow of energy expenditures,
 296 improve environmental conditions, and make the state a leader in
 297 new and innovative technologies.

298 Section 6. Subsection (2) of section 366.91, Florida
 299 Statutes, is amended to read:

300 366.91 Renewable energy.—

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

302 (a) "Biomass," when used as ~~means~~ a power source, means
 303 any organic material that is available on a renewable or
 304 recurring basis and that is comprised of, but is not limited to,
 305 combustible residues or gases from forest products
 306 manufacturing, waste, byproducts, or products from agricultural
 307 and orchard crops, waste or coproducts from livestock and
 308 poultry operations, waste or byproducts from food processing,

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309 recycling byproducts from the recycling of source materials that
 310 are not derived from fossil fuels, urban wood waste, municipal
 311 solid waste, municipal liquid waste treatment operations, and
 312 landfill gas.

313 (b) "Customer-owned renewable generation" means an
 314 electric generating system located on a customer's premises that
 315 is primarily intended to offset part or all of the customer's
 316 electricity requirements with renewable energy.

317 (c) "Net metering" means a metering and billing
 318 methodology whereby customer-owned renewable generation is
 319 allowed to offset the customer's electricity consumption on
 320 site, and the customer's site includes all of the customer's
 321 energy usage accounts located on contiguous property owned by
 322 the same customer.

323 (d) "Renewable energy" means electrical energy produced
 324 from a method that uses one or more of the following fuels or
 325 energy sources: hydrogen produced from sources other than fossil
 326 fuels, biomass, solar energy, geothermal energy, wind energy,
 327 ocean energy, and hydroelectric power. The term includes the
 328 alternative energy resource, waste heat, from sulfuric acid
 329 manufacturing operations ~~and electrical energy produced using~~
 330 ~~pipeline-quality synthetic gas produced from waste petroleum~~
 331 ~~oils with carbon capture and sequestration.~~

332 Section 7. Section 366.92, Florida Statutes, is amended to
 333 read:

334 366.92 Florida renewable energy policy.—

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

337 of Florida's existing renewable energy facilities; diversify the
 338 types of fuel used to generate electricity in Florida; lessen
 339 Florida's dependence on natural gas and fuel oil for the
 340 production of electricity; minimize the volatility of fuel
 341 costs; encourage investment within the state; improve
 342 environmental conditions; and, at the same time, minimize the
 343 costs of the conventional and renewable power supply to electric
 344 utilities and their customers while promoting Florida-based
 345 renewable energy production consistent with the state's energy
 346 policy.

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

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

350 (b) "Provider" means a "utility" as defined in s.
 351 366.8255(1) (a) .

352 (c) "Renewable energy" means renewable energy as defined
 353 in s. 366.91(2)(d) which is produced in this state.

354 ~~(d) "Renewable energy credit" or "REC" means a product~~
 355 ~~that represents the unbundled, separable, renewable attribute of~~
 356 ~~renewable energy produced in Florida and is equivalent to 1~~
 357 ~~megawatt-hour of electricity generated by a source of renewable~~
 358 ~~energy located in Florida.~~

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

363 (3) Subject to the provisions of this subsection, in order
 364 to provide for the most cost-effective development and

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365 deployment of renewable energy resources in this state, the
366 commission shall provide for the full cost recovery under the
367 environmental cost-recovery clause of all reasonable and prudent
368 costs incurred by a provider to produce or purchase, pursuant to
369 the provisions of this section, renewable energy for the
370 purposes of supplying electrical energy to its retail customers.

371 (a) Each provider shall purchase renewable energy pursuant
372 to a standard form contract for the purchase of renewable energy
373 from different types of renewable energy facilities located in
374 Florida.

375 1. The price to be paid for renewable energy purchased
376 through a standard form contract shall be expressed in a
377 levelized, or constant, price per kilowatt hour for the term of
378 the contract. The price shall be determined by a competitive
379 auction conducted by an independent auction administrator
380 engaged by the commission to ensure the objectivity and fairness
381 of the auction. The provider shall reimburse the commission for
382 the cost for the independent auction administrator, and the cost
383 is recoverable by the provider through the environmental cost-
384 recovery clause.

385 2. The terms and conditions of the standard form contract
386 shall be determined pursuant to the hearing conducted by the
387 commission before the issuance of such contract and the conduct
388 of the auction provided for in this paragraph.

389 3. For a renewable electric generating facility to be
390 eligible to participate in the auction, a renewable energy
391 supplier's facility must be located in Florida.

392 4. To ensure the timely construction of renewable energy

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393 projects, the standard contract must contain the following
394 provisions:

395 a. A \$20 per kilowatt development deposit for systems of
396 100 kilowatts or less, payable within 30 days after the contract
397 is executed by both the supplier and the purchasing utility.

398 b. A \$30 per kilowatt development deposit for systems
399 above 100 kilowatts, payable within 30 days after the contract
400 is executed by both the supplier and the purchasing utility.

401 5. Solar projects that are not operational within 18
402 months after the contract is executed and non-solar projects
403 that are not operational within 36 months after the contract is
404 executed are subject to contract termination. Termination is not
405 automatic, and notice and the opportunity for a hearing must be
406 provided prior to termination. Project delays due to regulatory
407 processes outside the developer's control may not be the basis
408 for contract termination.

409 6. A contract shall be for a minimum term of 20 years and
410 a maximum term of 30 years, with the term in years to be among
411 the terms and conditions to be established by the commission
412 pursuant to the hearing provided for in this paragraph.

413 (b) Each provider must offer, as its minimum, a standard
414 form contract for each of the following types and size classes
415 of renewable energy technologies:

416 1. Large (greater than 1,000 kilowatts), medium (greater
417 than 100 kilowatts but less than or equal to 999 kilowatts) and
418 small (less than or equal to 100 kilowatts) solar electric
419 technologies, including photovoltaic, solar thermoelectric, and
420 solar thermal generating technologies, as well as other electric

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421 production technologies that convert solar energy into
422 electricity, and also including fuel cells that are fueled by
423 hydrogen produced from hydrolysis of water using electricity
424 produced by solar technologies;

425 2. Large (greater than 100 kilowatts) and small (less than
426 or equal to 100 kilowatts) wind technologies;

427 3. Large (greater than 100 kilowatts) and small (less than
428 or equal to 100 kilowatts) hydroelectric technologies, including
429 technologies that utilize the energy in waves, ocean currents,
430 and thermal energy differentials;

431 4. Large (greater than or equal to 10 megawatts), medium-
432 sized (greater than 100 kilowatts but less than 10 megawatts),
433 and small (less than or equal to 100 kilowatts) biomass
434 technologies and applications of no more than 10 megawatts net
435 output capacity; and

436 5. Large (greater than 100 kilowatts) and small (less than
437 or equal to 100 kilowatts) waste heat technologies.

438 (c) Each provider shall purchase in 2012 and in each
439 calendar year thereafter 2 percent of the provider's total
440 retail revenues for renewable energy. The purchase is in
441 addition to the provider's avoided as-available energy cost for
442 the energy purchased. The provider's total retail revenues
443 include all cost adjustment, cost recovery, and similar add-on
444 charges collected by the provider in the preceding calendar
445 year. However, the total retail revenues exclude only franchise
446 fee revenues. Ten percent of the amount designated for each
447 technology type shall be reserved for small renewable energy
448 production facilities of the respective technology. A provider

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449 may expend in any year up to an additional 1 percent above the
450 minimum amounts required in this subsection of the provider's
451 total retail revenues, including all cost adjustment, cost
452 recovery, and similar add-on charges, collected by the provider
453 in the preceding calendar year, excluding only franchise fee
454 revenues.

455 (d)1. The commission shall require that a minimum of 25
456 percent of the total funding to be expended by each provider on
457 the purchase of solar energy. Each utility shall make available
458 a minimum of 10 percent of the utility's applicable amount for
459 small solar suppliers and a minimum of 20 percent of the
460 utility's applicable amount for medium solar suppliers. The
461 commission may establish minimum percentages of the funding that
462 is to be expended for renewable energy for wind energy and other
463 renewable energy technologies.

464 2. If the bids received from the auction are insufficient
465 to expend the total amount of funds available, the residual
466 funds are available for either technologies other than the
467 under-subscribed technologies or to be carried forward and
468 expended on a pro rata basis over the succeeding 4 years.

469 (e) Each provider may elect to provide up to, but no more
470 than, 25 percent of the total amount of renewable energy to be
471 purchased for each technology type listed in paragraph (b). If
472 the provider elects this option, the provider's cost recovery
473 shall be limited to the lowest price bid by any respondent in
474 the auction for supplying renewable energy of the respective
475 technology type for the life of the commitment.

476 (f) After a contract is executed or the provider has

477 elected to provide a portion of the renewable energy under
478 paragraph (c), the provider may not recover costs any greater
479 than the contract price or the price determined under paragraph
480 (c).

481 (g) Each provider may recover through the environmental
482 cost-recovery clause an amount equal to 0.005 percent of all
483 moneys paid to unaffiliated renewable energy producers to
484 purchase renewable energy.

485 (h) A provider may recover only the costs for new
486 construction or conversion projects for which construction
487 commenced on or after July 1, 2011, and for purchases made on or
488 after that date. All renewable energy projects for which costs
489 are approved by the commission for recovery through the
490 environmental cost-recovery clause before July 1, 2011, are not
491 subject to or included in the calculation pursuant to paragraph
492 (c).

493 (i) In a proceeding to recover costs, a provider must
494 provide to the commission all cost information, hourly energy
495 production information, and other information deemed relevant by
496 the commission with respect to each project.

497 (j) If a provider purchases renewable energy at a cost in
498 excess of its full avoided cost, the seller must surrender to
499 the provider all renewable attributes of the renewable energy
500 purchased.

501 (k) Revenues derived from any renewable energy credit,
502 carbon credit, green tag credit, renewable energy attribute, or
503 any other mechanism that attributes value to the production of
504 renewable energy, either existing or hereafter devised, and

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505 received by a provider by virtue of the production or purchase
506 of renewable energy for which cost recovery is approved, shall
507 be shared with the provider's ratepayers such that the
508 ratepayers are credited at least 95 percent of such revenues.
509 However, the provider is not required to share with its
510 ratepayers any value derived from credits received by the
511 provider by virtue of the purchase of renewable energy from a
512 third-party generating facility in the state which does not
513 exceed 2 megawatts in capacity and is not a regulated utility or
514 its unregulated affiliate.

515 (1) A renewable energy generating facility that is
516 constructed by a renewable energy supplier or by a provider to
517 provide renewable energy is not subject to s. 403.519. The
518 commission is not required to submit a report for the project
519 pursuant to s. 403.507(4)(a).

520 (4) Each provider shall, in its 10-year site plan
521 submitted to the commission, provide the following information:

522 (a) The amount of renewable energy resources the provider
523 produces or purchases.

524 (b) The amount of renewable energy resources the provider
525 plans to produce or purchase over the 10-year planning horizon
526 and the means by which such production or purchases will be
527 achieved.

528 (c) A statement indicating how the production and purchase
529 of renewable energy resources impact the provider's present and
530 future capacity and energy needs.

531 ~~(3) The commission shall adopt rules for a renewable~~
532 ~~portfolio standard requiring each provider to supply renewable~~

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533 ~~energy to its customers directly, by procuring, or through~~
534 ~~renewable energy credits. In developing the RPS rule, the~~
535 ~~commission shall consult the Department of Environmental~~
536 ~~Protection and the Florida Energy and Climate Commission. The~~
537 ~~rule shall not be implemented until ratified by the Legislature.~~
538 ~~The commission shall present a draft rule for legislative~~
539 ~~consideration by February 1, 2009.~~

540 ~~(a) In developing the rule, the commission shall evaluate~~
541 ~~the current and forecasted levelized cost in cents per kilowatt~~
542 ~~hour through 2020 and current and forecasted installed capacity~~
543 ~~in kilowatts for each renewable energy generation method through~~
544 ~~2020.~~

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

546 ~~1. Shall include methods of managing the cost of~~
547 ~~compliance with the renewable portfolio standard, whether~~
548 ~~through direct supply or procurement of renewable power or~~
549 ~~through the purchase of renewable energy credits. The commission~~
550 ~~shall have rulemaking authority for providing annual cost~~
551 ~~recovery and incentive-based adjustments to authorized rates of~~
552 ~~return on common equity to providers to incentivize renewable~~
553 ~~energy. Notwithstanding s. 366.91(3) and (4), upon the~~
554 ~~ratification of the rules developed pursuant to this subsection,~~
555 ~~the commission may approve projects and power sales agreements~~
556 ~~with renewable power producers and the sale of renewable energy~~
557 ~~credits needed to comply with the renewable portfolio standard.~~
558 ~~In the event of any conflict, this subparagraph shall supersede~~
559 ~~s. 366.91(3) and (4). However, nothing in this section shall~~
560 ~~alter the obligation of each public utility to continuously~~

561 ~~offer a purchase contract to producers of renewable energy.~~

562 ~~2. Shall provide for appropriate compliance measures and~~
563 ~~the conditions under which noncompliance shall be excused due to~~
564 ~~a determination by the commission that the supply of renewable~~
565 ~~energy or renewable energy credits was not adequate to satisfy~~
566 ~~the demand for such energy or that the cost of securing~~
567 ~~renewable energy or renewable energy credits was cost~~
568 ~~prohibitive.~~

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

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

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

578 ~~6. Shall ensure that energy credited toward compliance~~
579 ~~with the requirements of this section is not credited toward any~~
580 ~~other purpose.~~

581 ~~7. Shall include procedures to track and account for~~
582 ~~renewable energy credits, including ownership of renewable~~
583 ~~energy credits that are derived from a customer-owned renewable~~
584 ~~energy facility as a result of any action by a customer of an~~
585 ~~electric power supplier that is independent of a program~~
586 ~~sponsored by the electric power supplier.~~

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

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

590 ~~(c) Beginning on April 1 of the year following final~~
591 ~~adoption of the commission's renewable portfolio standard rule,~~
592 ~~each provider shall submit a report to the commission describing~~
593 ~~the steps that have been taken in the previous year and the~~
594 ~~steps that will be taken in the future to add renewable energy~~
595 ~~to the provider's energy supply portfolio. The report shall~~
596 ~~state whether the provider was in compliance with the renewable~~
597 ~~portfolio standard during the previous year and how it will~~
598 ~~comply with the renewable portfolio standard in the upcoming~~
599 ~~year.~~

600 ~~(4) In order to demonstrate the feasibility and viability~~
601 ~~of clean energy systems, the commission shall provide for full~~
602 ~~cost recovery under the environmental cost-recovery clause of~~
603 ~~all reasonable and prudent costs incurred by a provider for~~
604 ~~renewable energy projects that are zero greenhouse gas emitting~~
605 ~~at the point of generation, up to a total of 110 megawatts~~
606 ~~statewide, and for which the provider has secured necessary~~
607 ~~land, zoning permits, and transmission rights within the state.~~
608 ~~Such costs shall be deemed reasonable and prudent for purposes~~
609 ~~of cost recovery so long as the provider has used reasonable and~~
610 ~~customary industry practices in the design, procurement, and~~
611 ~~construction of the project in a cost-effective manner~~
612 ~~appropriate to the location of the facility. The provider shall~~
613 ~~report to the commission as part of the cost-recovery~~
614 ~~proceedings the construction costs, in-service costs, operating~~
615 ~~and maintenance costs, hourly energy production of the renewable~~
616 ~~energy project, and any other information deemed relevant by the~~

617 ~~commission. Any provider constructing a clean energy facility~~
 618 ~~pursuant to this section shall file for cost recovery no later~~
 619 ~~than July 1, 2009.~~

620 (5) Each municipal electric utility and rural electric
 621 cooperative shall develop standards for the promotion,
 622 encouragement, and expansion of the use of renewable energy
 623 resources and energy conservation and efficiency measures. On or
 624 before April 1, 2009, and annually thereafter, each municipal
 625 electric utility and electric cooperative shall submit to the
 626 commission a report that identifies such standards.

627 (6) Nothing in this section shall be construed to impede
 628 or impair terms and conditions of existing contracts.

629 (7) To further promote renewable energy, any expansion of
 630 an existing renewable energy electric generating facility,
 631 subject to a total of up to 200 net megawatts statewide, for
 632 which a site certification application is filed before January
 633 1, 2011, and which is owned by a local government entity, does
 634 not require a determination of need pursuant to s. 403.519.

635 (8) (a) A developer of renewable energy generation may
 636 locate, own, and operate a renewable energy generation facility
 637 that has an aggregate gross power rating of 5 megawatts or less,
 638 measured on an alternating current basis, on the premises of a
 639 host consumer or group of host consumers, including, without
 640 limitation, residential, commercial, industrial, institutional,
 641 or agricultural host customers located on the same or contiguous
 642 property, all subject to the aggregate gross power limitation,
 643 and supply electricity exclusively for sale to the host consumer
 644 for consumption only on the premises or contiguous property

645 owned or leased by the host consumer, regardless of
 646 interruptions in contiguity caused by easements, public
 647 thoroughfares, transportation rights-of-way, or utility rights-
 648 of-way.

649 (b) Interconnection, metering, and standby and
 650 supplemental service must be available to the host consumer
 651 served by renewable generation facilities on the same basis as
 652 if the host consumer owned and operated the renewable generation
 653 facilities themselves.

654 (c) The developer of renewable energy must annually
 655 provide to the commission the following information:

656 1. The size and location of each renewable energy
 657 generation facility planned.

658 2. The identity and historical and projected load
 659 characteristics of each host consumer.

660 3. The actual production and use of renewable electricity
 661 by facilities installed.

662 (d) Beginning January 1, 2013, and at least once every 12
 663 months thereafter, the commission shall report to the President
 664 of the Senate and the Speaker of the House of Representatives on
 665 activity under this subsection and the impacts of renewable
 666 energy generation activity on the electric power grid of the
 667 state, the individual utility systems, and each utility's
 668 general body of ratepayers, and shall make recommendations
 669 concerning implementation of this program.

670 (9)-(7) The commission may adopt rules to administer and
 671 implement the provisions of this section.

672 Section 8. Section 377.601, Florida Statutes, is amended

673 to read:

674 377.601 Legislative intent.—

675 (1) The purpose of the state's energy policy is to ensure
 676 adequate, reliable, cost-effective, and sustainable energy
 677 supplies for the state in a manner that: promotes sustainable
 678 economic growth; reduces Florida's dependence on fuels from
 679 outside the state; maximizes, within the limitations set forth
 680 in applicable provisions of law, the use of Florida-based
 681 renewable energy resources to produce electricity and
 682 transportation fuels; ensures that renewable energy resources
 683 are procured, to the maximum extent possible, using fair,
 684 transparent, and competitive purchase systems; and minimizes and
 685 mitigates any adverse impacts on human health and welfare, and
 686 on Florida's environment, to the maximum extent practicable and
 687 subject to the limitations set forth in applicable provisions of
 688 state law. The Legislature intends that the state's energy
 689 policy, and all decisions made by all state agencies impacting
 690 the state's energy policy, be efficiently directed toward
 691 achieving these purposes.

692 (2) In furtherance of these purposes, the state's energy
 693 policy shall be implemented through effective, efficient, and
 694 reliable governance and shall be guided by the following goals
 695 in order of their priority:

696 (a) Ensuring an affordable energy supply.

697 (b) Ensuring an adequate and sustainable energy supply and
 698 a Florida-based energy production capacity.

699 (c) Ensuring a secure and reliable energy supply.

700 (d) Minimizing energy cost volatility and the state's

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701 long-term exposure to volatility and increases in world energy
702 prices.

703 (e) Minimizing the negative impacts of energy production
704 on the state's environment, social fabric, and the public health
705 and welfare.

706 (f) Maximizing economic synergies for the state associated
707 with its energy policy.

708 (g) Reducing the net export of energy expenditures by
709 maximizing the use of Florida-based renewable energy resources
710 to meet the state's energy needs.

711 (3)~~(1)~~ The Legislature finds that the state's energy
712 security can be increased by lessening dependence on foreign
713 oil; that the impacts of global climate change can be reduced
714 through the reduction of greenhouse gas emissions; and that the
715 implementation of alternative energy technologies can be a
716 source of new jobs and employment opportunities for many
717 Floridians. The Legislature further finds that the state is
718 positioned at the front line against potential impacts of global
719 climate change. Human and economic costs of those impacts can be
720 averted by global actions and, where necessary, adapted to by a
721 concerted effort to make Florida's communities more resilient
722 and less vulnerable to these impacts. In focusing the
723 government's policy and efforts to benefit and protect our
724 state, its citizens, and its resources, the Legislature believes
725 that a single government entity with a specific focus on energy
726 and climate change is both desirable and advantageous. Further,
727 the Legislature finds that energy infrastructure provides the
728 foundation for secure and reliable access to the energy supplies

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729 and services on which Florida depends. Therefore, there is
730 significant value to Florida consumers that comes from
731 investment in Florida's energy infrastructure that increases
732 system reliability, enhances energy independence and
733 diversification, stabilizes energy costs, and reduces greenhouse
734 gas emissions.

735 (4)~~(2)~~ It is further the policy of the state ~~of Florida~~
736 to:

737 (a) Develop and promote the effective use of energy in the
738 state, discourage all forms of energy waste, and recognize and
739 address the potential of global climate change wherever
740 possible.

741 (b) Play a leading role in developing and instituting
742 energy management programs aimed at promoting energy
743 conservation, energy security, and the reduction of greenhouse
744 gas emissions.

745 (c) Include energy considerations consistent with the
746 state's energy policy in all state, regional, and local planning
747 decisions, as well as in all decisions by state agencies.

748 (d) Utilize and manage effectively energy resources used
749 within state agencies.

750 (e) Encourage local governments to include energy
751 considerations in all planning and to support their work in
752 promoting energy management programs.

753 (f) Include the full participation of citizens in the
754 development and implementation of energy programs.

755 (g) Consider in its decisions the energy needs of each
756 economic sector, including residential, industrial, commercial,

757 agricultural, and governmental uses, and reduce those needs
 758 whenever possible.

759 (h) Promote energy education and the public dissemination
 760 of information on the use and consumption of energy and its
 761 environmental, economic, and social impacts ~~impact~~.

762 (i) Encourage the research, development, demonstration,
 763 and application of alternative energy resources, particularly
 764 renewable energy resources.

765 (j) Consider, in its decisionmaking, the social, economic,
 766 and environmental impacts of energy-related activities,
 767 including the whole-life-cycle impacts of any potential energy
 768 use choices, so that detrimental effects of these activities are
 769 understood and minimized.

770 (k) Develop and maintain energy emergency preparedness
 771 plans to minimize the effects of an energy shortage within
 772 Florida.

773 Section 9. Subsection (1) and paragraph (f) of subsection
 774 (2) of section 377.703, Florida Statutes, are amended to read:

775 377.703 Additional functions of the Florida Energy and
 776 Climate Commission.—

777 (1) LEGISLATIVE INTENT.—Recognizing that energy supply and
 778 demand questions have become a major area of concern to the
 779 state which must be dealt with by effective and well-coordinated
 780 state action, it is the intent of the Legislature to promote the
 781 efficient, effective, and economical management of energy
 782 problems, centralize energy coordination responsibilities,
 783 pinpoint responsibility for conducting energy programs, and
 784 ensure the accountability of state agencies for the

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785 implementation of s. 377.601 ~~s. 377.601(2)~~, the state energy
786 policy. It is the specific intent of the Legislature that
787 nothing in this act shall in any way change the powers, duties,
788 and responsibilities assigned by the Florida Electrical Power
789 Plant Siting Act, part II of chapter 403, or the powers, duties,
790 and responsibilities of the Florida Public Service Commission.

791 (2) FLORIDA ENERGY AND CLIMATE COMMISSION; DUTIES.—The
792 commission shall perform the following functions consistent with
793 the development of a state energy policy:

794 (f) The commission shall submit an annual report to the
795 Governor and the Legislature reflecting its activities and
796 making recommendations of policies for improvement of the
797 state's response to energy supply and demand and its effect on
798 the health, safety, and welfare of the people of Florida. The
799 report shall include a report from the Florida Public Service
800 Commission on electricity and natural gas and information on
801 energy conservation programs conducted and underway in the past
802 year and shall include recommendations for energy conservation
803 programs for the state, including, but not limited to, the
804 following factors:

805 1. Formulation of specific recommendations for improvement
806 in the efficiency of energy utilization in governmental,
807 residential, commercial, industrial, and transportation sectors.

808 2. Collection and dissemination of information relating to
809 energy conservation.

810 3. Development and conduct of educational and training
811 programs relating to energy conservation.

812 4. An analysis of the ways in which state agencies are

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813 seeking to implement s. 377.601 ~~s. 377.601(2)~~, the state energy
814 policy, and recommendations for better fulfilling this policy.

815 Section 10. Present subsections (3) and (4) of section
816 377.809, Florida Statutes, are renumbered as subsections (4) and
817 (5), respectively, and a new subsection (3) is added to that
818 section to read:

819 377.809 Energy Economic Zone Pilot Program.—

820 (3) The Department of Community Affairs, in consultation
821 with the Florida Energy and Climate Commission, shall implement
822 an Energy Economic Zone Pilot Program for the purpose of
823 developing a model to assist communities in attracting renewable
824 energy technology, energy efficiency technology, and biofuel
825 technology industries that are focused on bringing research and
826 development projects to large-scale production. The Office of
827 Tourism, Trade, and Economic Development shall provide technical
828 assistance in obtaining additional or supplemental financing and
829 in developing and administering the program.

830 (a) The application for the pilot project shall:

831 1. Identify the proposed location of the energy economic
832 zone, which must have a significant workforce population that is
833 at risk as a result of reduced or eliminated federal funding.

834 2. Present a proposed strategic plan for development and
835 redevelopment in the energy economic zone.

836 3. Demonstrate consistency of the strategic plan with the
837 local comprehensive plan or include proposed plan amendments
838 necessary to achieve consistency.

839 (b) The Department of Community Affairs must grant at
840 least one application if the application meets the requirements

841 of this subsection and the community has demonstrated a prior
 842 commitment to technology development. The Department of
 843 Community Affairs, the Florida Energy and Climate Commission,
 844 and the Office of Tourism, Trade, and Economic Development shall
 845 provide the pilot community with technical assistance in
 846 identifying and qualifying for eligible grants and credits in
 847 job creation, energy development, and other areas of
 848 development, and encourage businesses to locate within the
 849 energy economic zone.

850 Section 11. Subsection (14) of section 403.503, Florida
 851 Statutes, is amended to read:

852 403.503 Definitions relating to Florida Electrical Power
 853 Plant Siting Act.—As used in this act:

854 (14) "Electrical power plant" means, for the purpose of
 855 certification, any steam ~~or solar~~ electrical generating facility
 856 using any process or fuel, including nuclear materials, except
 857 that this term does not include any steam ~~or solar~~ electrical
 858 generating facility of less than 75 megawatts in capacity or any
 859 solar or biomass electrical generating facility of any sized
 860 capacity unless the applicant for such a facility elects to
 861 apply for certification under this act. This term also includes
 862 the site; all associated facilities that will be owned by the
 863 applicant that are physically connected to the site; all
 864 associated facilities that are indirectly connected to the site
 865 by other proposed associated facilities that will be owned by
 866 the applicant; and associated transmission lines that will be
 867 owned by the applicant which connect the electrical power plant
 868 to an existing transmission network or rights-of-way to which

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869 the applicant intends to connect. At the applicant's option,
870 this term may include any offsite associated facilities that
871 will not be owned by the applicant; offsite associated
872 facilities that are owned by the applicant but that are not
873 directly connected to the site; any proposed terminal or
874 intermediate substations or substation expansions connected to
875 the associated transmission line; or new transmission lines,
876 upgrades, or improvements of an existing transmission line on
877 any portion of the applicant's electrical transmission system
878 necessary to support the generation injected into the system
879 from the proposed electrical power plant.

880 Section 12. If any provision of this act or the
881 application thereof to any person or circumstance is held
882 invalid, the invalidity does not affect other provisions or
883 applications of the act that may be given effect without the
884 invalid provision or application, and to this end the provisions
885 of this act are declared to be severable.

886 Section 13. This act shall take effect upon becoming a
887 law.