

By Senators Altman and Jones

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

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

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59 amending s. 377.601, F.S.; revising legislative intent
60 relating to the state's energy policy; amending s.
61 377.703, F.S.; conforming cross-references; amending
62 s. 377.809, F.S.; creating an energy economic zone
63 pilot program for attracting renewable energy, energy
64 efficiency, and biofuel technology industries to an
65 area; requiring the Department of Community Affairs to
66 provide technical assistance; providing for an
67 application process; providing criteria to grant at
68 least one application; amending s. 403.503, F.S.;
69 redefining the term "electrical power plant" for
70 purposes of the Florida Electrical Power Plant Siting
71 Act; providing for severability; providing an
72 effective date.

73

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

75

76 Section 1. Paragraph (hh) of subsection (7) of section
77 212.08, Florida Statutes, is amended to read:

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

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

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

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

113 Section 2. Paragraphs (c), (f), and (g) of subsection (1)
114 and subsection (2) of section 220.192, Florida Statutes, are
115 amended to read:

116 220.192 Renewable energy technologies investment tax

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117 credit.—

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

119 (c) "Eligible costs" means:

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

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

137 3. Seventy-five percent of all capital costs, operation and
138 maintenance costs, and research and development costs incurred
139 between July 1, 2006, and June 30, 2016 ~~2010~~, up to a limit of
140 \$6 ~~\$6.5~~ million per state fiscal year for all taxpayers, in
141 connection with an investment in the production, storage, and
142 distribution of biodiesel (B10-B100) and ethanol (E10-E100) in
143 the state, including the costs of constructing, installing, and
144 equipping such technologies in the state. Gasoline fueling
145 station pump retrofits for ethanol (E10-E100) distribution

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146 qualify as an eligible cost under this subparagraph.

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

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

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

166 (2) TAX CREDIT.—

167 (a) For tax years beginning on or after January 1, 2007, a
168 credit against the tax imposed by this chapter shall be granted
169 in an amount equal to the eligible costs defined in
170 subparagraphs (1)(c)1.-3. For a solar electric generating
171 facility to be eligible to receive the investment tax credit
172 provided by this section, the renewable energy supplier's
173 facility must be located in Florida and contain at least 60
174 percent, as a percentage of the total installed cost including

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

196 (b) For tax years beginning on or after January 1, 2011, a
197 credit against the tax imposed by this chapter shall be granted
198 in an amount equal to the eligible costs defined in subparagraph
199 (1)(c)4. The credits may be used in tax years beginning January
200 1, 2011, and ending December 31, 2016, after which the credit
201 shall expire. If the credit is not fully used in any one tax
202 year because of insufficient tax liability on the part of the
203 corporation, the unused amount may be carried forward and used

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204 in tax years beginning January 1, 2010, and ending December 31,
205 2021, after which the credit carryover expires and may not be
206 used. A taxpayer that files a consolidated return in this state
207 as a member of an affiliated group under s. 220.131(1) may be
208 allowed the credit on a consolidated return basis up to the
209 amount of tax imposed upon the consolidated group. Any eligible
210 cost for which a credit is claimed and which is deducted or
211 otherwise reduces federal taxable income shall be added back in
212 computing adjusted federal income under s. 220.13.

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

215 220.193 Florida renewable energy production credit.—

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

224 (b) The credit may be claimed for electricity produced and
225 sold on or after January 1, 2007. Beginning in 2008 and
226 continuing until 2017 ~~2011~~, each taxpayer claiming a credit
227 under this section must first apply to the department by
228 February 1 of each year for an allocation of available credit.
229 The department, in consultation with the commission, shall
230 develop an application form. The application form shall, at a
231 minimum, require a sworn affidavit from each taxpayer certifying
232 the increase in production and sales that form the basis of the

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233 application and certifying that all information contained in the
234 application is true and correct.

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

242 Section 4. Subsection (1) of section 366.02, Florida
243 Statutes, is amended to read:

244 366.02 Definitions.—As used in this chapter:

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

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

253 (b) A municipality or any agency thereof;

254 (c) Any dependent or independent special ~~natural gas~~
255 district, including special natural gas districts;

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

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

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

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

283 Section 5. Section 366.90, Florida Statutes, is created to
284 read:

285 366.90 Renewable energy for electricity production.-In
286 furtherance of the energy policy goals established in s.
287 377.601, the Legislature finds that it is in the public interest
288 to promote the development of renewable energy resources in the
289 state, for purposes of electricity production, through the
290 provisions of ss. 366.91 and 366.92. The Legislature further

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291 finds that renewable energy resources have the potential to help
292 diversify fuel types to alleviate the state's growing dependence
293 on natural gas and other fossil fuels for the production of
294 electricity, minimize the volatility of fuel costs, encourage
295 investment within the state, promote the state's energy
296 independence and long-term economic and environmental
297 sustainability, reduce the net outflow of energy expenditures,
298 improve environmental conditions, and make the state a leader in
299 new and innovative technologies.

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

302 366.91 Renewable energy.—

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

304 (a) "Biomass," when used as ~~means~~ a power source, means any
305 organic material that is available on a renewable or recurring
306 basis and that is comprised of, but is not limited to,
307 combustible residues or gases from forest products
308 manufacturing, waste, byproducts, or products from agricultural
309 and orchard crops, waste or coproducts from livestock and
310 poultry operations, waste or byproducts from food processing,
311 recycling byproducts from the recycling of source materials that
312 are not derived from fossil fuels, urban wood waste, municipal
313 solid waste, municipal liquid waste treatment operations, and
314 landfill gas.

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

319 (c) "Net metering" means a metering and billing methodology

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320 whereby customer-owned renewable generation is allowed to offset
321 the customer's electricity consumption on site, and the
322 customer's site includes all of the customer's energy usage
323 accounts located on contiguous property owned by the same
324 customer.

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

334 Section 7. Section 366.92, Florida Statutes, is amended to
335 read:

336 366.92 Florida renewable energy policy.—

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

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

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

352 (b) "Provider" means a "utility" as defined in s.
353 366.8255(1) (a).

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

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

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

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

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

377 1. The price to be paid for renewable energy purchased

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

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

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

394 4. To ensure the timely construction of renewable energy
395 projects, the standard contract must contain the following
396 provisions:

397 a. A \$20 per kilowatt development deposit for systems of
398 100 kilowatts or less, payable within 30 days after the contract
399 is executed by both the supplier and the purchasing utility.

400 b. A \$30 per kilowatt development deposit for systems above
401 100 kilowatts, payable within 30 days after the contract is
402 executed by both the supplier and the purchasing utility.

403 5. Solar projects that are not operational within 18 months
404 after the contract is executed and non-solar projects that are
405 not operational within 36 months after the contract is executed
406 are subject to contract termination. Termination is not

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407 automatic, and notice and the opportunity for a hearing must be
408 provided prior to termination. Project delays due to regulatory
409 processes outside the developer's control may not be the basis
410 for contract termination.

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

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

418 1. Large (greater than 1,000 kilowatts), medium (greater
419 than 100 kilowatts but less than or equal to 999 kilowatts) and
420 small (less than or equal to 100 kilowatts) solar electric
421 technologies, including photovoltaic, solar thermoelectric, and
422 solar thermal generating technologies, as well as other electric
423 production technologies that convert solar energy into
424 electricity, and also including fuel cells that are fueled by
425 hydrogen produced from hydrolysis of water using electricity
426 produced by solar technologies;

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

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

433 4. Large (greater than or equal to 10 megawatts), medium-
434 sized (greater than 100 kilowatts but less than 10 megawatts),
435 and small (less than or equal to 100 kilowatts) biomass

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436 technologies and applications of no more than 10 megawatts net
437 output capacity; and

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

440 (c) Each provider shall purchase in 2012 and in each
441 calendar year thereafter 2 percent of the provider's total
442 retail revenues for renewable energy. The purchase is in
443 addition to the provider's avoided as-available energy cost for
444 the energy purchased. The provider's total retail revenues
445 include all cost adjustment, cost recovery, and similar add-on
446 charges collected by the provider in the preceding calendar
447 year. However, the total retail revenues exclude only franchise
448 fee revenues. Ten percent of the amount designated for each
449 technology type shall be reserved for small renewable energy
450 production facilities of the respective technology. A provider
451 may expend in any year up to an additional 1 percent above the
452 minimum amounts required in this subsection of the provider's
453 total retail revenues, including all cost adjustment, cost
454 recovery, and similar add-on charges, collected by the provider
455 in the preceding calendar year, excluding only franchise fee
456 revenues.

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

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465 renewable energy technologies.

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

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

478 (f) After a contract is executed or the provider has
479 elected to provide a portion of the renewable energy under
480 paragraph (c), the provider may not recover costs any greater
481 than the contract price or the price determined under paragraph
482 (c).

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

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

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494 (c).

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

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

503 (k) Revenues derived from any renewable energy credit,
504 carbon credit, green tag credit, renewable energy attribute, or
505 any other mechanism that attributes value to the production of
506 renewable energy, either existing or hereafter devised, and
507 received by a provider by virtue of the production or purchase
508 of renewable energy for which cost recovery is approved, shall
509 be shared with the provider's ratepayers such that the
510 ratepayers are credited at least 95 percent of such revenues.
511 However, the provider is not required to share with its
512 ratepayers any value derived from credits received by the
513 provider by virtue of the purchase of renewable energy from a
514 third-party generating facility in the state which does not
515 exceed 2 megawatts in capacity and is not a regulated utility or
516 its unregulated affiliate.

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

522 (4) Each provider shall, in its 10-year site plan submitted

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523 to the commission, provide the following information:

524 (a) The amount of renewable energy resources the provider
525 produces or purchases.

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

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

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

542 ~~(a) In developing the rule, the commission shall evaluate~~
543 ~~the current and forecasted levelized cost in cents per kilowatt~~
544 ~~hour through 2020 and current and forecasted installed capacity~~
545 ~~in kilowatts for each renewable energy generation method through~~
546 ~~2020.~~

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

548 ~~1. Shall include methods of managing the cost of compliance~~
549 ~~with the renewable portfolio standard, whether through direct~~
550 ~~supply or procurement of renewable power or through the purchase~~
551 ~~of renewable energy credits. The commission shall have~~

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552 ~~rulemaking authority for providing annual cost recovery and~~
553 ~~incentive-based adjustments to authorized rates of return on~~
554 ~~common equity to providers to incentivize renewable energy.~~
555 ~~Notwithstanding s. 366.91(3) and (4), upon the ratification of~~
556 ~~the rules developed pursuant to this subsection, the commission~~
557 ~~may approve projects and power sales agreements with renewable~~
558 ~~power producers and the sale of renewable energy credits needed~~
559 ~~to comply with the renewable portfolio standard. In the event of~~
560 ~~any conflict, this subparagraph shall supersede s. 366.91(3) and~~
561 ~~(4). However, nothing in this section shall alter the obligation~~
562 ~~of each public utility to continuously offer a purchase contract~~
563 ~~to producers of renewable energy.~~

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

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

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

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

580 ~~6. Shall ensure that energy credited toward compliance with~~

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581 ~~the requirements of this section is not credited toward any~~
582 ~~other purpose.~~

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

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

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

602 ~~(4) In order to demonstrate the feasibility and viability~~
603 ~~of clean energy systems, the commission shall provide for full~~
604 ~~cost recovery under the environmental cost-recovery clause of~~
605 ~~all reasonable and prudent costs incurred by a provider for~~
606 ~~renewable energy projects that are zero greenhouse gas emitting~~
607 ~~at the point of generation, up to a total of 110 megawatts~~
608 ~~statewide, and for which the provider has secured necessary~~
609 ~~land, zoning permits, and transmission rights within the state.~~

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610 ~~Such costs shall be deemed reasonable and prudent for purposes~~
611 ~~of cost recovery so long as the provider has used reasonable and~~
612 ~~customary industry practices in the design, procurement, and~~
613 ~~construction of the project in a cost-effective manner~~
614 ~~appropriate to the location of the facility. The provider shall~~
615 ~~report to the commission as part of the cost-recovery~~
616 ~~proceedings the construction costs, in-service costs, operating~~
617 ~~and maintenance costs, hourly energy production of the renewable~~
618 ~~energy project, and any other information deemed relevant by the~~
619 ~~commission. Any provider constructing a clean energy facility~~
620 ~~pursuant to this section shall file for cost recovery no later~~
621 ~~than July 1, 2009.~~

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

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

631 (7) To further promote renewable energy, any expansion of
632 an existing renewable energy electric generating facility,
633 subject to a total of up to 200 net megawatts statewide, for
634 which a site certification application is filed before January
635 1, 2011, and which is owned by a local government entity, does
636 not require a determination of need pursuant to s. 403.519.

637 (8) (a) A developer of renewable energy generation may
638 locate, own, and operate a renewable energy generation facility

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639 that has an aggregate gross power rating of 5 megawatts or less,
640 measured on an alternating current basis, on the premises of a
641 host consumer or group of host consumers, including, without
642 limitation, residential, commercial, industrial, institutional,
643 or agricultural host customers located on the same or contiguous
644 property, all subject to the aggregate gross power limitation,
645 and supply electricity exclusively for sale to the host consumer
646 for consumption only on the premises or contiguous property
647 owned or leased by the host consumer, regardless of
648 interruptions in contiguity caused by easements, public
649 thoroughfares, transportation rights-of-way, or utility rights-
650 of-way.

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

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

658 1. The size and location of each renewable energy
659 generation facility planned.

660 2. The identity and historical and projected load
661 characteristics of each host consumer.

662 3. The actual production and use of renewable electricity
663 by facilities installed.

664 (d) Beginning January 1, 2013, and at least once every 12
665 months thereafter, the commission shall report to the President
666 of the Senate and the Speaker of the House of Representatives on
667 activity under this subsection and the impacts of renewable

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668 energy generation activity on the electric power grid of the
669 state, the individual utility systems, and each utility's
670 general body of ratepayers, and shall make recommendations
671 concerning implementation of this program.

672 (9) ~~(7)~~ The commission may adopt rules to administer and
673 implement the provisions of this section.

674 Section 8. Section 377.601, Florida Statutes, is amended to
675 read:

676 377.601 Legislative intent.—

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

694 (2) In furtherance of these purposes, the state's energy
695 policy shall be implemented through effective, efficient, and
696 reliable governance and shall be guided by the following goals

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697 in order of their priority:

698 (a) Ensuring an affordable energy supply.

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

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

702 (d) Minimizing energy cost volatility and the state's long-
703 term exposure to volatility and increases in world energy
704 prices.

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

708 (f) Maximizing economic synergies for the state associated
709 with its energy policy.

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

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

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726 state, its citizens, and its resources, the Legislature believes
727 that a single government entity with a specific focus on energy
728 and climate change is both desirable and advantageous. Further,
729 the Legislature finds that energy infrastructure provides the
730 foundation for secure and reliable access to the energy supplies
731 and services on which Florida depends. Therefore, there is
732 significant value to Florida consumers that comes from
733 investment in Florida's energy infrastructure that increases
734 system reliability, enhances energy independence and
735 diversification, stabilizes energy costs, and reduces greenhouse
736 gas emissions.

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

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

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

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

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

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

754 (f) Include the full participation of citizens in the

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755 development and implementation of energy programs.

756 (g) Consider in its decisions the energy needs of each
757 economic sector, including residential, industrial, commercial,
758 agricultural, and governmental uses, and reduce those needs
759 whenever possible.

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

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

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

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

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

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

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

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

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

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

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

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

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

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813 4. An analysis of the ways in which state agencies are
814 seeking to implement s. 377.601 ~~s. 377.601(2)~~, the state energy
815 policy, and recommendations for better fulfilling this policy.

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

820 377.809 Energy Economic Zone Pilot Program.—

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

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

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

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

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

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

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

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

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

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

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

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

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