

By the Committees on Communications, Energy, and Public Utilities; and Communications, Energy, and Public Utilities

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1 A bill to be entitled
2 An act relating to energy; amending s. 366.051, F.S.;
3 requiring a utility to purchase excess electrical
4 output generated by any property owner's rooftop solar
5 equipment within its service area; amending s. 366.82,
6 F.S.; requiring all public utilities to perform a free
7 energy audit of the business structures of commercial
8 customers; providing that the audit is deemed
9 satisfied under certain conditions; amending s.
10 255.252, F.S.; requiring the Department of Management
11 Services to prioritize buildings for an energy audit
12 and retrofits and to proceed with performing those
13 audits and retrofits; amending s. 366.92, F.S.;
14 deleting obsolete provisions; providing new conditions
15 for full cost recovery for regulated electric
16 utilities for the costs of renewable energy projects;
17 authorizing a certain amount of recoverable costs for
18 solar generation to be added to the provider's demand-
19 side renewable energy system projects; making
20 available certain amounts for solar projects of up to
21 10 kilowatts; providing a mechanism for providers to
22 recover costs to produce or purchase renewable energy
23 through the environmental cost-recovery clause under
24 certain conditions; requiring providers to make
25 reports; creating s. 366.95, F.S.; providing for the
26 development of a state energy resources plan by the
27 Public Service Commission; establishing requirements
28 for the plan; requiring the Public Service Commission
29 to make certain determinations; providing criteria;

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30 requiring the additional renewable energy resources to
31 be obtained pursuant to the bid process; providing for
32 cost recovery for new facilities developed under the
33 plan; providing that a determination by the commission
34 constitutes a determination of need and the required
35 agency report; requiring the commission to review the
36 state energy resources plan biennially; transferring
37 all of the powers, property, unexpended balances of
38 appropriations, allocations, and administrative
39 authority of the Florida Energy and Climate Commission
40 to the Florida Energy Office by a type two transfer;
41 amending s. 377.6015, F.S.; locating the Florida
42 Energy Office within the Department of Environmental
43 Protection; specifying that the office is not subject
44 to control, supervision, or direction by the
45 Department of Environmental Protection and exempting
46 the office from certain provisions; providing for the
47 administrative structure of the Florida Energy Office;
48 providing for the powers and duties of the Florida
49 Energy Office; providing an effective date.

50
51 Be It Enacted by the Legislature of the State of Florida:

52
53 Section 1. Section 366.051, Florida Statutes, is amended to
54 read:

55 366.051 Cogeneration; small power production; commission
56 jurisdiction.—Electricity produced by cogeneration and small
57 power production, including that produced by individual property
58 owners using rooftop solar equipment, is of benefit to the

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59 public when included as part of the total energy supply of the
60 entire electric grid of the state or consumed by a cogenerator
61 or small power producer. To empower individual property owners
62 to invest in renewable energy alternatives on their own property
63 so that they may reduce their individual energy cost and
64 consumption of fossil fuels, utilities are required to purchase
65 the excess electrical output generated by any property owner
66 within its service area who has installed rooftop solar
67 equipment. The electric utility in whose service area a
68 cogenerator or small power producer is located shall purchase,
69 in accordance with applicable law, all electricity offered for
70 sale by such cogenerator or small power producer; or the
71 cogenerator or small power producer may sell such electricity to
72 any other electric utility in the state. The commission shall
73 establish guidelines relating to the purchase of power or energy
74 by public utilities from cogenerators or small power producers
75 and may set rates at which a public utility must purchase power
76 or energy from a cogenerator or small power producer. In fixing
77 rates for power purchased by public utilities from cogenerators
78 or small power producers, the commission shall authorize a rate
79 equal to the purchasing utility's full avoided costs. A
80 utility's "full avoided costs" are the incremental costs to the
81 utility of the electric energy or capacity, or both, which, but
82 for the purchase from cogenerators or small power producers,
83 such utility would generate itself or purchase from another
84 source. The commission may use a statewide avoided unit when
85 setting full avoided capacity costs. If the cogenerator or small
86 power producer provides adequate security, based on its
87 financial stability, and no costs in excess of full avoided

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88 costs are likely to be incurred by the electric utility over the
89 term during which electricity is to be provided, the commission
90 shall authorize the levelization of payments and the elimination
91 of discounts due to risk factors in determining the rates.
92 Public utilities shall provide transmission or distribution
93 service to enable a retail customer to transmit electrical power
94 generated by the customer at one location to the customer's
95 facilities at another location, if the commission finds that the
96 provision of this service, and the charges, terms, and other
97 conditions associated with the provision of this service, are
98 not likely to result in higher cost electric service to the
99 utility's general body of retail and wholesale customers or
100 adversely affect the adequacy or reliability of electric service
101 to all customers. Notwithstanding any other provision of law,
102 power generated by the customer and provided by the utility to
103 the customers' facility at another location is subject to the
104 gross receipts tax imposed under s. 203.01 and the use tax
105 imposed under s. 212.06. Such taxes shall apply at the time the
106 power is provided at such other location and shall be based upon
107 the cost price of such power as provided in s. 212.06(1)(b).

108 Section 2. Subsection (11) of section 366.82, Florida
109 Statutes, is amended to read:

110 366.82 Definition; goals; plans; programs; annual reports;
111 energy audits.—

112 (11) (a) The commission shall require each utility to offer,
113 or to contract to offer, energy audits to its residential
114 customers. This requirement need not be uniform, but may be
115 based on such factors as level of usage, geographic location, or
116 any other reasonable criterion, so long as all eligible

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117 customers are notified. The commission may extend this
118 requirement to some or all commercial customers. The commission
119 shall set the charge for audits by rule, not to exceed the
120 actual cost, and may describe by rule the general form and
121 content of an audit. In the event one utility contracts with
122 another utility to perform audits for it, the utility for which
123 the audits are performed shall pay the contracting utility the
124 reasonable cost of performing the audits. Each utility over
125 which the commission has ratesetting authority shall estimate
126 its costs and revenues for audits, conservation programs, and
127 implementation of its plan for the immediately following 6-month
128 period. Reasonable and prudent unreimbursed costs projected to
129 be incurred, or any portion of such costs, may be added to the
130 rates which would otherwise be charged by a utility upon
131 approval by the commission, provided that the commission shall
132 not allow the recovery of the cost of any company image-
133 enhancing advertising or of any advertising not directly related
134 to an approved conservation program. Following each 6-month
135 period, each utility shall report the actual results for that
136 period to the commission, and the difference, if any, between
137 actual and projected results shall be taken into account in
138 succeeding periods. The state plan as submitted for
139 consideration under the National Energy Conservation Policy Act
140 must ~~shall~~ not be in conflict with any state law or regulation.

141 (b) Before December 31, 2016, each public utility shall, in
142 writing, offer to conduct a free energy audit of the business
143 structures of each commercial customer within its service
144 territory and provide the customer with a report that includes
145 options for energy savings improvements and any available

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146 financial assistance for said improvements. If a customer has
147 been audited in the previous 5 years before July 1, 2011, this
148 requirement is deemed satisfied.

149 Section 3. Subsection (5) of section 255.252, Florida
150 Statutes, is amended to read:

151 255.252 Findings and intent.—

152 (5) Each state agency occupying space within buildings
153 owned or managed by the Department of Management Services must
154 identify and compile a list of projects determined to be
155 suitable for a guaranteed energy, water, and wastewater
156 performance savings contract pursuant to s. 489.145. The list of
157 projects compiled by each state agency shall be submitted to the
158 Department of Management Services by December 31, 2008, and must
159 include all criteria used to determine suitability. The list of
160 projects shall be developed from the list of state-owned
161 facilities more than 5,000 square feet in area and for which the
162 state agency is responsible for paying the expenses of utilities
163 and other operating expenses as they relate to energy use. In
164 consultation with the head of each state agency, by July 1,
165 2009, the department shall prioritize all projects deemed
166 suitable by each state agency and shall develop an energy-
167 efficiency project schedule based on factors such as project
168 magnitude, efficiency and effectiveness of energy conservation
169 measures to be implemented, and other factors that may prove to
170 be advantageous to pursue. The schedule shall provide the
171 deadline for guaranteed energy, water, and wastewater
172 performance savings contract improvements to be made to the
173 state-owned buildings. Beginning on July 1, 2011, in
174 consultation with the head of each state agency, the Department

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175 of Management Services shall develop a prioritized list of
176 buildings on which to have an energy audit performed. The
177 Department of Management Services shall then proceed to perform
178 the energy savings retrofits in the order of the anticipated
179 shortest payback period.

180 Section 4. Section 366.92, Florida Statutes, is amended to
181 read:

182 366.92 Florida renewable energy policy.—

183 (1) It is the intent of the Legislature to promote the
184 development of renewable energy; protect the economic viability
185 of Florida's existing renewable energy facilities; diversify the
186 types of fuel used to generate electricity in Florida; lessen
187 Florida's dependence on natural gas and fuel oil for the
188 production of electricity; minimize the volatility of fuel
189 costs; encourage investment within the state; improve
190 environmental conditions; and, at the same time, minimize the
191 costs of power supply to electric utilities and their customers.

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

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

195 (b) "Provider" means a "utility" as defined in s.
196 366.8255(1) (a).

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

199 ~~(d) "Renewable energy credit" or "REC" means a product that~~
200 ~~represents the unbundled, separable, renewable attribute of~~
201 ~~renewable energy produced in Florida and is equivalent to 1~~
202 ~~megawatt-hour of electricity generated by a source of renewable~~
203 ~~energy located in Florida.~~

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204 ~~(c) "Renewable portfolio standard" or "RPS" means the~~
205 ~~minimum percentage of total annual retail electricity sales by a~~
206 ~~provider to consumers in Florida that shall be supplied by~~
207 ~~renewable energy produced in Florida.~~

208 (3) (a) A provider may petition the commission through July
209 1, 2016, for recovery of costs to produce or purchase renewable
210 energy. A provider may develop renewable energy projects and
211 recover all related costs as provided herein. A provider may
212 build Florida renewable energy resources, convert existing
213 fossil fuel generation plants to a Florida renewable energy
214 resource, or purchase renewable energy. If a provider opts to
215 develop renewable energy pursuant to this subsection, at least
216 25 percent of the total nameplate capacity for which a provider
217 is permitted to recover costs in any calendar year under this
218 subsection must be produced or purchased from renewable energy
219 resources other than solar energy. In the case of a purchase of
220 non-solar renewable energy, the provider must purchase actual
221 production from nameplate capacity of that amount.

222 (b) Five percent of the total costs of solar generation for
223 which a provider is permitted recovery in any calendar year
224 under this subsection shall be added to any amounts authorized
225 for a provider's demand-side renewable energy system projects
226 approved by the commission pursuant to s. 366.82. At least 50
227 percent of this incremental amount added to the provider's
228 demand-side renewable energy system projects in any calendar
229 year under this subsection shall be made available by the
230 provider for incentives for solar projects of up to 10
231 kilowatts.

232 (c) After the completion of construction of a new renewable

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233 energy project, the completion of the conversion of an existing
234 facility to renewable energy, or the completion of a purchase of
235 renewable energy, and the filing by a provider of a petition for
236 approval of cost recovery, the commission must schedule a formal
237 administrative hearing within 10 days after the date of the
238 filing of the petition and vote on the petition within 90 days
239 after the date of the filing.

240 (d)1. The costs incurred by a provider in connection with
241 the construction or conversion, operation, and maintenance of a
242 renewable energy project are deemed to be prudent for purposes
243 of cost recovery so long as the provider has used reasonable and
244 customary industry practices in the design, procurement, and
245 construction of the project in a cost-effective manner that is
246 appropriate for the type of renewable energy facility and
247 appropriate to the location of the facility. A provider may
248 recover all prudently incurred costs of renewable energy under
249 the environmental cost-recovery clause provisions of s.
250 366.8255. As part of the cost-recovery proceedings, the provider
251 must report to the commission the construction costs, in-service
252 costs, operating and maintenance costs, hourly energy production
253 of the renewable energy project, and any other information
254 deemed relevant by the commission.

255 2. The commission must allow full cost recovery over the
256 entire useful life of the Florida renewable energy resource of
257 the revenue requirements using traditional declining balance
258 amortization of all reasonable and prudently incurred costs,
259 including, but not limited to, the following:

260 a. The siting, licensing, engineering, design, permitting,
261 construction, operation, and maintenance of a renewable energy

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262 facility and associated transmission facilities by the provider.
263 For purposes of this paragraph, the term "cost" includes, but is
264 not limited to, all capital investments, including rate of
265 return, and any applicable taxes and all expenses, including
266 operation and maintenance expenses;

267 b. The costs associated with the purchase of capacity and
268 energy from new renewable energy resources;

269 c. The costs for conversion of an existing fossil fuel
270 generating plant to a renewable energy facility, including the
271 costs of retirement of the fossil fuel generation plant.

272 (e) The cost of producing or purchasing renewable energy in
273 any calendar year may not exceed 2 percent of the investor-owned
274 utility's total revenue from retail sales of electricity for the
275 2010 calendar year. All cost recovery sought under this section
276 shall be limited to no greater than a 2 percent increase to the
277 average monthly bill for each of the utility's ratepayers.

278 (f) A provider must submit the proposed project to the same
279 bid process as with any other generating facility to develop a
280 renewable energy project.

281 (g) If a provider pays costs for purchased power above the
282 provider's full avoided costs, the seller must surrender to the
283 provider all renewable attributes of the energy being purchased
284 by the provider.

285 (h) Any revenues or other economic benefit that is derived
286 from any renewable energy credit, carbon credit, or other
287 mechanism that attributes value to the production of renewable
288 energy and that is received by a provider relating to renewable
289 energy or other carbon-neutral or carbon-free means of producing
290 electricity must be shared with the provider's ratepayers, such

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291 that the ratepayers are credited with at least 90 percent of
292 such revenues or of the value of such other economic benefit.

293 (i) The Legislature finds that there is a need for the
294 renewable energy facilities to be developed pursuant to this
295 subsection and this legislative finding serves as the
296 determination of need required under s. 403.519 and as the
297 commission's agency report required under s. 403.507(4)(a). This
298 legislative determination of need creates a presumption of
299 public need and necessity which may not be raised in any other
300 forum or in the review of proceedings in such other forum and
301 substitutes for the commission's report required by s.
302 403.507(4).

303 (j) Each provider obtaining cost recovery under this
304 subsection must, for the duration of the recovery period, file
305 an annual report with the commission containing the information
306 required in this subsection and any other information the
307 commission deems necessary. The commission must gather all such
308 reports annually and file a report with the Governor, the
309 President of the Senate, and the Speaker of the House of
310 Representatives not later than March 1 of each year. Each
311 provider report must contain the following:

312 1. A description of the project, including a description of
313 the technology used, the size of the project, and its location.

314 2. A description and the amounts of the costs of
315 construction, operation, and maintenance of the project.

316 3. A description and the total number of the jobs created
317 as a result of the project, including how long each job lasted.

318 4. A description of the impact of the project on existing
319 and planned generation and transmission facilities and on

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320 ratepayers, including how much production by traditional means
321 was avoided, any planned traditional plants included in the 10-
322 year site plan which were made unnecessary, any additional
323 transmission that was necessary, a description of any impact on
324 grid security and reliability, and a description of the price
325 impact on ratepayers.

326 ~~(3) The commission shall adopt rules for a renewable~~
327 ~~portfolio standard requiring each provider to supply renewable~~
328 ~~energy to its customers directly, by procuring, or through~~
329 ~~renewable energy credits. In developing the RPS rule, the~~
330 ~~commission shall consult the Department of Environmental~~
331 ~~Protection and the Florida Energy and Climate Commission. The~~
332 ~~rule shall not be implemented until ratified by the Legislature.~~
333 ~~The commission shall present a draft rule for legislative~~
334 ~~consideration by February 1, 2009.~~

335 ~~(a) In developing the rule, the commission shall evaluate~~
336 ~~the current and forecasted levelized cost in cents per kilowatt~~
337 ~~hour through 2020 and current and forecasted installed capacity~~
338 ~~in kilowatts for each renewable energy generation method through~~
339 ~~2020.~~

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

341 ~~1. Shall include methods of managing the cost of compliance~~
342 ~~with the renewable portfolio standard, whether through direct~~
343 ~~supply or procurement of renewable power or through the purchase~~
344 ~~of renewable energy credits. The commission shall have~~
345 ~~rulemaking authority for providing annual cost recovery and~~
346 ~~incentive-based adjustments to authorized rates of return on~~
347 ~~common equity to providers to incentivize renewable energy.~~
348 ~~Notwithstanding s. 366.91(3) and (4), upon the ratification of~~

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349 ~~the rules developed pursuant to this subsection, the commission~~
350 ~~may approve projects and power sales agreements with renewable~~
351 ~~power producers and the sale of renewable energy credits needed~~
352 ~~to comply with the renewable portfolio standard. In the event of~~
353 ~~any conflict, this subparagraph shall supersede s. 366.91(3) and~~
354 ~~(4). However, nothing in this section shall alter the obligation~~
355 ~~of each public utility to continuously offer a purchase contract~~
356 ~~to producers of renewable energy.~~

357 ~~2. Shall provide for appropriate compliance measures and~~
358 ~~the conditions under which noncompliance shall be excused due to~~
359 ~~a determination by the commission that the supply of renewable~~
360 ~~energy or renewable energy credits was not adequate to satisfy~~
361 ~~the demand for such energy or that the cost of securing~~
362 ~~renewable energy or renewable energy credits was cost~~
363 ~~prohibitive.~~

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

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

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

373 ~~6. Shall ensure that energy credited toward compliance with~~
374 ~~the requirements of this section is not credited toward any~~
375 ~~other purpose.~~

376 ~~7. Shall include procedures to track and account for~~
377 ~~renewable energy credits, including ownership of renewable~~

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378 ~~energy credits that are derived from a customer-owned renewable~~
379 ~~energy facility as a result of any action by a customer of an~~
380 ~~electric power supplier that is independent of a program~~
381 ~~sponsored by the electric power supplier.~~

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

385 ~~(c) Beginning on April 1 of the year following final~~
386 ~~adoption of the commission's renewable portfolio standard rule,~~
387 ~~each provider shall submit a report to the commission describing~~
388 ~~the steps that have been taken in the previous year and the~~
389 ~~steps that will be taken in the future to add renewable energy~~
390 ~~to the provider's energy supply portfolio. The report shall~~
391 ~~state whether the provider was in compliance with the renewable~~
392 ~~portfolio standard during the previous year and how it will~~
393 ~~comply with the renewable portfolio standard in the upcoming~~
394 ~~year.~~

395 ~~(4) In order to demonstrate the feasibility and viability~~
396 ~~of clean energy systems, the commission shall provide for full~~
397 ~~cost recovery under the environmental cost-recovery clause of~~
398 ~~all reasonable and prudent costs incurred by a provider for~~
399 ~~renewable energy projects that are zero greenhouse gas emitting~~
400 ~~at the point of generation, up to a total of 110 megawatts~~
401 ~~statewide, and for which the provider has secured necessary~~
402 ~~land, zoning permits, and transmission rights within the state.~~
403 ~~Such costs shall be deemed reasonable and prudent for purposes~~
404 ~~of cost recovery so long as the provider has used reasonable and~~
405 ~~customary industry practices in the design, procurement, and~~
406 ~~construction of the project in a cost-effective manner~~

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407 ~~appropriate to the location of the facility. The provider shall~~
408 ~~report to the commission as part of the cost recovery~~
409 ~~proceedings the construction costs, in-service costs, operating~~
410 ~~and maintenance costs, hourly energy production of the renewable~~
411 ~~energy project, and any other information deemed relevant by the~~
412 ~~commission. Any provider constructing a clean energy facility~~
413 ~~pursuant to this section shall file for cost recovery no later~~
414 ~~than July 1, 2009.~~

415 ~~(4)~~(5) Each municipal electric utility and rural electric
416 cooperative shall develop standards for the promotion,
417 encouragement, and expansion of the use of renewable energy
418 resources and energy conservation and efficiency measures. On or
419 before April 1, 2009, and annually thereafter, each municipal
420 electric utility and electric cooperative shall submit to the
421 commission a report that identifies such standards.

422 ~~(5)~~(6) Nothing in this section shall be construed to impede
423 or impair terms and conditions of existing contracts or to
424 require renegotiation or repricing of existing contracts.

425 ~~(6)~~(7) The commission may adopt rules to administer and
426 implement the provisions of this section.

427 Section 5. Section 366.95, Florida Statutes, is created to
428 read:

429 366.95 State energy resources plan.—

430 (1) The Legislature finds that increased use of renewable
431 energy in this state would have the following benefits:

432 (a) Renewable energy can help with issues relating to fuel
433 used to generate electricity;

434 (b) Renewable energy can help reduce carbon emissions; and

435 (c) Renewable energy can produce jobs.

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436 (2) The state currently has very little renewable energy in
437 production, with renewable energy constituting approximately 2
438 percent of all electricity sold at retail. Quickly increasing
439 the use of renewable energy would be costly to ratepayers. Each
440 of the regulated utilities is different in customer base,
441 generation fleet, and transmission and distribution requirements
442 and would be affected differently by a renewable energy
443 requirement, making a mandate inappropriate. In lieu of a
444 mandate, the commission shall develop a state energy resources
445 plan as an expansion of its duties relating to the 10-year site
446 plan requirements of s. 186.801.

447 (3) The Public Service Commission shall develop a plan
448 that:

449 (a) Forecasts:

450 1. The demand for electricity;

451 2. The energy supply requirements needed to satisfy this
452 projected demand, including the amount of capacity needed to
453 provide adequate reserve margins and capacity needed to ensure
454 reliability;

455 3. The ability of the existing energy supply sources and
456 the existing transmission systems to satisfy the state's energy
457 needs together with those sources or systems reasonably certain
458 to be available, including planned additions, retirements,
459 substantial planned outages, and any other expected changes in
460 levels of generating and production capacity; and

461 4. The additional electric capacity or transmission systems
462 needed to meet such energy supply requirements that will not be
463 met by existing sources of supply and those reasonably certain
464 to be available, where such analysis should identify system

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465 constraints and possible alternatives available, both supply-
466 side and demand-side alternatives, including, but not limited
467 to, distributed generation, energy efficiency, and conservation
468 measures, to redress such constraint.

469 (b) Identifies and assesses the costs, risks, benefits, and
470 uncertainties of energy supply source alternatives, including
471 demand-reducing measures, renewable energy resources,
472 distributed generation technologies, cogeneration technologies,
473 and other methods and technologies reasonably available for
474 satisfying energy supply requirements.

475 (c) Identifies and analyzes emerging trends related to
476 energy supply, price, and demand.

477 (d) Identifies potential future sites for biomass power
478 plants and solar power plants.

479 (e) Identifies potential future sites for transmission and
480 distribution lines.

481 (f) Determines optimal percentages of fuels and
482 technologies, both traditional and renewable, in the electric
483 generation fleet for the next 10-year period.

484 (g) Determines the process and timeline for incorporating
485 renewable energy resources into the generation fleet, and
486 addresses redundancy of plants, both necessary and unnecessary,
487 and the retirement of unnecessary existing plants.

488 (h) Determines if any changes should be made to capacity,
489 including any additions or retirements, and if any additional
490 transmission or distribution lines are necessary.

491 (4) The commission shall consider the following in making a
492 determination whether a renewable energy resource should be
493 added to the generation and production fleet:

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- 494 (a) The societal benefits of renewable energy;
495 (b) The necessity of maintaining an adequate and reliable
496 source for energy and capacity needs;
497 (c) The necessity of maintaining an adequate and reliable
498 transmission and distribution grid;
499 (d) The necessity to maintain fuel mix and diversity and
500 source reliability and to minimize price fluctuations; and
501 (e) The necessity of minimizing overall price impacts to
502 ratepayers.
- 503 (5) (a) A public utility may obtain additional renewable
504 energy resources pursuant to this section if the commission
505 determines that renewable energy resources should be added to
506 the generation and production fleet by building a renewable
507 energy facility, converting an existing fossil fuel facility to
508 renewable energy, or purchasing renewable energy. All projects
509 are subject to the same bid process as with any other generating
510 facility. The provider must submit a bid if it seeks to self-
511 build the project.
- 512 (b) The utility may recover all reasonable and prudently
513 incurred costs for building a renewable energy facility,
514 converting an existing fossil fuel facility to renewable energy,
515 or purchasing renewable energy in base rates. All determinations
516 of prudence of costs shall be made, giving consideration to the
517 provisions and goals of this section and of the state energy
518 resources plan.
- 519 (c) All revenues from renewable energy credits or carbon
520 credits shall be shared with ratepayers in a manner such that
521 ratepayers receive a minimum of 90 percent of the revenue.
- 522 (6) A determination by the commission that renewable energy

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523 resources should be added to the generation and production fleet
524 constitutes a determination of need for those resources and is
525 the determination of need required under s. 403.519 and the
526 commission's agency report required under s. 403.507(4)(a).

527 (7) The Florida Energy Office may be a party to all
528 proceedings under this section, and the Department of
529 Agriculture and Consumer Services may be a party in any
530 proceeding relating to biomass plants on issues relating to
531 proper siting for proximity to foodstocks, forestry management,
532 or related matters.

533 (8) The commission shall review the state energy resources
534 plan biennially.

535 Section 6. All of the powers, duties, functions, records,
536 personnel, and property; unexpended balances of appropriations,
537 allocations, and other funds; administrative authority;
538 administrative rules; pending issues; and existing contracts of
539 the Florida Energy and Climate Commission are transferred by a
540 type two transfer, pursuant to s. 20.06(2), Florida Statutes, to
541 the Florida Energy Office.

542 Section 7. Section 377.6015, Florida Statutes, is amended
543 to read:

544 377.6015 Florida Energy Office ~~and Climate Commission.~~

545 (1) There is created within the Department of Environmental
546 Protection the Florida Energy Office. The office is a separate
547 budget entity and is exempt from the provisions of s. 20.052.
548 The office is not subject to control, supervision, or direction
549 by the Department of Environmental Protection in any manner,
550 including purchasing, transactions involving real or personal
551 property, personnel, or budgetary matters.

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552 (2) The office shall be headed by a director, who is the
553 agency head for purposes of final agency action under chapter
554 120 for all areas within the authority delegated to the
555 director's office. The director shall be appointed by the
556 Governor and shall be subject to confirmation by the Senate.

557 (3) The office shall have a sufficient number of
558 professional and administrative personnel to carry out its
559 responsibilities.

560 ~~(1) The Florida Energy and Climate Commission is created~~
561 ~~within the Executive Office of the Governor. The commission~~
562 ~~shall be comprised of nine members appointed by the Governor,~~
563 ~~the Commissioner of Agriculture, and the Chief Financial~~
564 ~~Officer.~~

565 ~~(a) The Governor shall appoint one member from three~~
566 ~~persons nominated by the Florida Public Service Commission~~
567 ~~Nominating Council, created in s. 350.031, to each of seven~~
568 ~~seats on the commission. The Commissioner of Agriculture shall~~
569 ~~appoint one member from three persons nominated by the council~~
570 ~~to one seat on the commission. The Chief Financial Officer shall~~
571 ~~appoint one member from three persons nominated by the council~~
572 ~~to one seat on the commission.~~

573 ~~1. The council shall submit the recommendations to the~~
574 ~~Governor, the Commissioner of Agriculture, and the Chief~~
575 ~~Financial Officer by September 1 of those years in which the~~
576 ~~terms are to begin the following October or within 60 days after~~
577 ~~a vacancy occurs for any reason other than the expiration of the~~
578 ~~term. The Governor, the Commissioner of Agriculture, and the~~
579 ~~Chief Financial Officer may proffer names of persons to be~~
580 ~~considered for nomination by the council.~~

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581 ~~2. The Governor, the Commissioner of Agriculture, and the~~
582 ~~Chief Financial Officer shall fill a vacancy occurring on the~~
583 ~~commission by appointment of one of the applicants nominated by~~
584 ~~the council only after a background investigation of such~~
585 ~~applicant has been conducted by the Department of Law~~
586 ~~Enforcement.~~

587 ~~3. Members shall be appointed to 3-year terms; however, in~~
588 ~~order to establish staggered terms, for the initial~~
589 ~~appointments, the Governor shall appoint four members to 3-year~~
590 ~~terms, two members to 2-year terms, and one member to a 1-year~~
591 ~~term, and the Commissioner of Agriculture and the Chief~~
592 ~~Financial Officer shall each appoint one member to a 3-year term~~
593 ~~and shall appoint a successor when that appointee's term expires~~
594 ~~in the same manner as the original appointment.~~

595 ~~4. The Governor shall select from the membership of the~~
596 ~~commission one person to serve as chair.~~

597 ~~5. A vacancy on the commission shall be filled for the~~
598 ~~unexpired portion of the term in the same manner as the original~~
599 ~~appointment.~~

600 ~~6. If the Governor, the Commissioner of Agriculture, or the~~
601 ~~Chief Financial Officer has not made an appointment within 30~~
602 ~~consecutive calendar days after the receipt of the~~
603 ~~recommendations, the council shall initiate, in accordance with~~
604 ~~this section, the nominating process within 30 days.~~

605 ~~7. Each appointment to the commission shall be subject to~~
606 ~~confirmation by the Senate during the next regular session after~~
607 ~~the vacancy occurs. If the Senate refuses to confirm or fails to~~
608 ~~consider the appointment of the Governor, the Commissioner of~~
609 ~~Agriculture, or the Chief Financial Officer, the council shall~~

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610 ~~initiate, in accordance with this section, the nominating~~
611 ~~process within 30 days.~~

612 ~~8. The Governor or the Governor's successor may recall an~~
613 ~~appointee.~~

614 ~~9. Notwithstanding subparagraph 7. and for the initial~~
615 ~~appointments to the commission only, each initial appointment to~~
616 ~~the commission is subject to confirmation by the Senate by the~~
617 ~~2010 Regular Session. If the Senate refuses to confirm or fails~~
618 ~~to consider an appointment made by the Governor, the~~
619 ~~Commissioner of Agriculture, or the Chief Financial Officer, the~~
620 ~~council shall initiate, in accordance with this section, the~~
621 ~~nominating process within 30 days after the Senate's refusal to~~
622 ~~confirm or failure to consider such appointment. This~~
623 ~~subparagraph expires July 1, 2010.~~

624 ~~(b) Members must meet the following qualifications and~~
625 ~~restrictions:~~

626 ~~1. A member must be an expert in one or more of the~~
627 ~~following fields: energy, natural resource conservation,~~
628 ~~economics, engineering, finance, law, transportation and land~~
629 ~~use, consumer protection, state energy policy, or another field~~
630 ~~substantially related to the duties and functions of the~~
631 ~~commission. The commission shall fairly represent the fields~~
632 ~~specified in this subparagraph.~~

633 ~~2. Each member shall, at the time of appointment and at~~
634 ~~each commission meeting during his or her term of office,~~
635 ~~disclose:~~

636 ~~a. Whether he or she has any financial interest, other than~~
637 ~~ownership of shares in a mutual fund, in any business entity~~
638 ~~that, directly or indirectly, owns or controls, or is an~~

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639 ~~affiliate or subsidiary of, any business entity that may be~~
640 ~~affected by the policy recommendations developed by the~~
641 ~~commission.~~

642 ~~b. Whether he or she is employed by or is engaged in any~~
643 ~~business activity with any business entity that, directly or~~
644 ~~indirectly, owns or controls, or is an affiliate or subsidiary~~
645 ~~of, any business entity that may be affected by the policy~~
646 ~~recommendations developed by the commission.~~

647 ~~(c) The chair may designate the following ex officio,~~
648 ~~nonvoting members to provide information and advice to the~~
649 ~~commission at the request of the chair:~~

650 ~~1. The chair of the Florida Public Service Commission, or~~
651 ~~his or her designee.~~

652 ~~2. The Public Counsel, or his or her designee.~~

653 ~~3. A representative of the Department of Agriculture and~~
654 ~~Consumer Services.~~

655 ~~4. A representative of the Department of Financial~~
656 ~~Services.~~

657 ~~5. A representative of the Department of Environmental~~
658 ~~Protection.~~

659 ~~6. A representative of the Department of Community Affairs.~~

660 ~~7. A representative of the Board of Governors of the State~~
661 ~~University System.~~

662 ~~8. A representative of the Department of Transportation.~~

663 ~~(2) Members shall serve without compensation but are~~
664 ~~entitled to reimbursement for per diem and travel expenses as~~
665 ~~provided in s. 112.061.~~

666 ~~(3) Meetings of the commission may be held in various~~
667 ~~locations around the state and at the call of the chair;~~

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668 ~~however, the commission must meet at least six times each year.~~

669 (4) The office ~~commission~~ may:

670 (a) Employ staff and counsel as needed in the performance
671 of its duties.

672 (b) Prosecute and defend legal actions in its own name.

673 ~~(c) Form advisory groups consisting of members of the
674 public to provide information on specific issues.~~

675 (5) The office ~~commission~~ shall:

676 (a) Act as the principal economic development organization
677 for the state on matters relating to renewable, alternative, or
678 clean energy.

679 1. The office shall market the state as a probusiness
680 location for potential new energy-related investment in order to
681 create new energy-related businesses and to retain and expand
682 existing energy-related businesses. In doing so, the office
683 shall work with Enterprise Florida, Inc., Space Florida, and all
684 other governmental entities at all levels, and with all relevant
685 private sector entities as necessary to facilitate the location
686 of a business in this state by assisting those businesses in
687 such matters as obtaining permits or licenses, determining
688 appropriate tax laws and rules, and obtaining financing,
689 incentives, grants, and other funding.

690 2. The office shall work with the Florida Energy Systems
691 Consortium to coordinate and promote Florida research on energy
692 and to recruit energy researchers to Florida. As part of this
693 role, the office shall serve as the clearinghouse for research
694 information from universities and private sector entities that
695 receive funding or other assistance from the state relating to
696 their research projects.

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697 (b)~~(a)~~ Administer the Florida Renewable Energy and Energy-
698 Efficient Technologies Grants Program pursuant to s. 377.804 to
699 assure a robust grant portfolio.

700 (c)~~(b)~~ Develop policy for requiring grantees to provide
701 royalty-sharing or licensing agreements with state government
702 for commercialized products developed under a state grant.

703 (d)~~(e)~~ Administer the Florida Green Government Grants Act
704 pursuant to s. 377.808 and set annual priorities for grants.

705 (e)~~(d)~~ Administer the information gathering and reporting
706 functions pursuant to ss. 377.601-377.608.

707 ~~(e) Administer petroleum planning and emergency contingency~~
708 ~~planning pursuant to ss. 377.701, 377.703, and 377.704.~~

709 (f) Represent Florida in the Southern States Energy Compact
710 pursuant to ss. 377.71-377.712.

711 ~~(g) Complete the annual assessment of the efficacy of~~
712 ~~Florida's Energy and Climate Change Action Plan, upon completion~~
713 ~~by the Governor's Action Team on Energy and Climate Change~~
714 ~~pursuant to the Governor's Executive Order 2007-128, and provide~~
715 ~~specific recommendations to the Governor and the Legislature~~
716 ~~each year to improve results.~~

717 (g)~~(h)~~ Administer the provisions of the Florida Energy and
718 Climate Protection Act pursuant to ss. 377.801-377.806.

719 (h)~~(i)~~ Advocate for energy and climate change issues and
720 provide educational outreach and technical assistance in
721 cooperation with the state's academic institutions.

722 ~~(j) Be a party in the proceedings to adopt goals and submit~~
723 ~~comments to the Public Service Commission pursuant to s. 366.82.~~

724 (i)~~(k)~~ Adopt rules pursuant to chapter 120 in order to
725 implement all powers and duties described in this section.

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Section 8. This act shall take effect July 1, 2011.