

**FLORIDA HOUSE OF REPRESENTATIVES**

**FINAL BILL ANALYSIS**

**BILL #:** SB 2106

**FINAL HOUSE FLOOR ACTION:**

85 Y's 34 N's

**SPONSOR:** Senate Budget Committee

**GOVERNOR'S ACTION:** Vetoed.

**COMPANION BILLS:** None. However provisions are contained within SB 2156.

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**SUMMARY ANALYSIS**

SB 2106 passed the Senate as amended by the conference committee report on May 6, 2011, and subsequently passed the House of Representatives on May 7, 2011.

The bill transfers the Florida Energy Office from the Executive Office of the Governor to the Department of Agriculture and Consumer Services (DACS). Specifically, the bill:

- Abolishes the nine-member Florida Energy and Climate Commission (FECC).
- Except where otherwise specified, provides for a Type Two Transfer of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts to the DACS.
- Transfers the duties from the FECC for petroleum allocation planning and emergency contingency planning programs to the newly-created Division of Emergency Management within the Executive Office of the Governor.
- Transfers administration of the federal Coastal Energy Impact Program to the Department of Environmental Protection.
- Transfers coordination and review, in consultation with the DACS, of the energy conservation programs of all state agencies to the Department of Management Services.
- Creates the Office of Energy and Water within the DACS.
- Authorizes the DACS to submit an amendment to the Legislative Budget Commission for increased budget authority for a fixed capital outlay appropriation for federal energy grants.
- Makes conforming changes to applicable statutes and cross-references.

The bill does not have a significant fiscal impact on state or local governments. There are 15 fulltime equivalent employees (FTEs) and \$2,149,516 in the operating budget for FY 2011-2012 that will be transferred from the Florida Energy and Climate Commission within the Executive Office of the Governor to the Department of Agriculture and Consumer Services. The remainder of the program is funded through federal funds.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Present Situation

##### *History of the Florida Energy and Climate Commission / State Energy Office*

In response to the energy crisis in the 1970s, the State Energy Office was established by the Legislature in 1975. Over the years, it has been housed in the Department of Administration, the Department of Community Affairs, the Department of Environmental Protection, and, most recently, the Executive Office of the Governor.

In 2006, the Legislature established the Florida Energy Commission, as an arm of the Legislature, to develop recommendations for legislation to establish a state energy policy. The recommendations of the commission were to be based on the guiding principles of reliability, efficiency, affordability, and diversity.<sup>1</sup>

During the 2007 Legislative Session, the issue of fragmentation of energy policy governance began to be raised. At that time, there were many public sector entities playing a role in developing, implementing, or coordinating some aspect of Florida's energy policies: the Florida Energy Office within the Department of Environmental Protection, the Department of Community Affairs, the Florida Building Commission, the Department of Agriculture and Consumer Services, the Department of Management Services, the Department of Financial Services, the Public Service Commission, the Florida Energy Commission, and a host of colleges and universities.

To begin addressing the fragmentation issue, the 2007 Legislature passed CS/HB 7123, which included the creation of a 12-member Energy Policy Governance Task Force to study and recommend a unified approach to developing and implementing the state's energy policies. The bill, however, was vetoed by Governor Crist on June 20, 2007, and the task force was not created.

Subsequent to the veto, in its 2007 report, the Florida Energy Commission noted,

What does need to occur is the deletion of redundancies and streamlining of the process to create a smooth flow of responsibilities with accountability across agencies or entities with a strong focus on effectiveness. The new commission would be the State's premier energy policy formulating board, making recommendations to the Governor and the Legislature and implementing the programs statutorily assigned to it.<sup>2</sup>

In response to this recommendation and others, in 2008, the Legislature established the Florida Energy and Climate Commission (Commission or FECC) as the state entity for recommending, implementing, and coordinating Florida's energy policy and for coordinating all federal energy programs delegated to the state. The measure, in effect, merged the Department of Environmental Protection's Florida Energy Office with the Legislature's Florida Energy Commission and administratively placed the new entity within the Executive Office of the Governor.

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<sup>1</sup> Former s. 377.901(5), F.S.

<sup>2</sup> *2007 Recommendations to the Florida Legislature Volume 1*, Florida Energy Commission, 2007, p. 20.

The FECC is comprised of nine members: seven appointed by the Governor and one each by the Chief Financial Officer and the Commissioner of Agriculture, all subject to Senate confirmation. A member must be an expert in one or more of the following fields: energy, natural resource conservation, economics, engineering, finance, law, transportation and land use, consumer protection, state energy policy, or another field substantially related to the duties and functions of the Commission. By law, the Governor selects the chair of the Commission. These Commissioners are not salaried employees, but are reimbursed per diem for travel, if needed.

In 2009, the Senate failed to confirm the membership of the Commission, which resulted in a provision being placed in the Implementing 2009-2010 General Appropriations Act (SB 2602) extending the term of office of each Commissioner until the 2010 Regular Session. In 2010, the Senate confirmed the membership of the Commission.

The Commission is required to meet at least six times a year and may employ staff and counsel, as needed. As of March 2011, the Commission has met or convened via conference-call approximately 31 times since its inception.

Pursuant to ss. 377.6015(5), 377.701, and 377.703(2) and (3), F.S., the Commission is charged with a variety of responsibilities, such as administering various grant programs and specific financial incentive programs; developing a fair and equitable petroleum allocation plan for the state; performing or coordinating the functions of any federal energy programs delegated to the state and coordinating efforts to seek federal support for state energy activities; administering the Coastal Energy Impact Program; completing annual assessments of the efficacy of Florida's Energy and Climate Change Action Plan and providing recommendations to the Governor and the Legislature each year to improve the results; and developing, coordinating, and promoting a comprehensive research plan for state programs, consistent with state energy policy.

The Commission is required to serve as an advocate for energy and climate change issues and provide educational outreach and technical assistance in cooperation with the state's academic institutions. The director of the Florida Energy Systems Consortium is directed to consult with and report to the FECC.<sup>3</sup> Further, the Commission is charged with helping Florida build an energy efficient economy through programs to encourage energy conservation and promote the use of alternative energy sources.

#### *Effects of the American Recovery and Reinvestment Act of 2009 on the Commission*

In 2009, the federal government, through the American Recovery and Reinvestment Act of 2009 (ARRA) provided stimulus monies to qualifying states for energy-related programs.<sup>4</sup> Under the ARRA, Florida received approximately \$176 million to be administered by the Florida Energy and Climate Commission over a three-year period (2009-2012). This allocation was a substantial increase to the Energy Office programs which, prior to ARRA, had a recent (2006-2008) average funding level of approximately \$20 million.<sup>5</sup> In order to offer grants, rebates, and

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<sup>3</sup> In 2008, the Legislature created the Florida Energy Systems Consortium, pursuant to s. 1004.648, F.S., to promote collaboration among experts in the State University System for the purposes of sharing energy-related expertise and assisting in the development and implementation of a comprehensive, long-term, environmentally compatible, sustainable, and efficient energy strategic plan for the state.

<sup>4</sup> [http://www.recovery.gov/About/Pages/The\\_Act.aspx](http://www.recovery.gov/About/Pages/The_Act.aspx).

<sup>5</sup> *Governor's Energy Office & Florida Energy & Climate Commission Agency Summary*, p. 15. Document can be accessed from the following Commission website:

loans to residents and businesses throughout Florida, the Commission initiated over 18 programs and received program approval from the U.S. Department of Energy and funding authorization from the Florida Legislature to distribute the stimulus dollars.

According to the Commission, the Governor's Energy Office is in various stages of administering the ARRA-funded grant programs, which include the following processes that must be completed for each of the approximately 172 new grant awards:

- Application review and validation.
- Award approval and notification.
- Grant/contract development.
- Grant/contract execution.
- Grant/contract implementation.

In addition, there are approximately 18 sub-grants currently open and being managed from previous funding cycles.<sup>6</sup>

The Commission notes that the ARRA "also includes an unprecedented level of accountability and transparency reporting on both expenditures and results. These requirements have significantly increased the administrative workload for staff managing projects funded with ARRA grant dollars and have consumed significant management resources and time."<sup>7</sup>

With regard to the impact that the ARRA-funded programs through the Governor's Energy Office are having on the Executive Office of the Governor, the Commission has calculated that the number of financial transactions completed in a month for the Governor's Energy Office is approximately equal to the total amount of other financial transactions completed for the entire Executive Office of the Governor annually.<sup>8</sup>

In the *Governor's Energy Office and Florida Energy and Climate Commission Agency Summary*, which was released in January 2011, the Commission notes the following:

Prior to the American Recovery and Reinvestment Act of 2009 (ARRA), the focus and responsibilities of the Governor's Energy Office<sup>9</sup> were primarily related to energy policy and legislation. With the recent allocation of over \$175 million in ARRA funding, the focus has changed and the primary role and function of the Energy Office is grant management.

#### *Energy-Related Programs within the Department of Agriculture and Consumer Services*

The Department of Agriculture and Consumer Services (DACS or Department) has programs whose purpose is to address energy and environmental issues. The Department administers the statutory Farm-to-Fuel Initiative "to enhance the market for and promote the production and distribution of renewable energy from Florida grown crops, agricultural wastes and residues,

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[http://myfloridaclimate.com/climate\\_quick\\_links/florida\\_energy\\_climate\\_commission/the\\_commission/meetings\\_and\\_workshops/january\\_14\\_2011\\_conference\\_call](http://myfloridaclimate.com/climate_quick_links/florida_energy_climate_commission/the_commission/meetings_and_workshops/january_14_2011_conference_call).

<sup>6</sup> Correspondence with Florida Energy and Climate Commission staff on March 10, 2011.

<sup>7</sup> *Governor's Energy Office & Florida Energy & Climate Commission Agency Summary*, p. 15. Document can be accessed from the following Commission website:

[http://myfloridaclimate.com/climate\\_quick\\_links/florida\\_energy\\_climate\\_commission/the\\_commission/meetings\\_and\\_workshops/january\\_14\\_2011\\_conference\\_call](http://myfloridaclimate.com/climate_quick_links/florida_energy_climate_commission/the_commission/meetings_and_workshops/january_14_2011_conference_call).

<sup>8</sup> *Id.*, p. 17.

<sup>9</sup> The "Governor's Energy Office" refers to the office that houses the staff that supports the Commission.

and other biomass and to enhance the value of agricultural products or expand agribusiness in the state.”<sup>10</sup> It administers the Florida Renewable Fuel Standard, which requires that all gasoline sold in the state, with exceptions, contain a mixture of 90 to 91 percent gasoline and 9 to 10 percent fuel ethanol, by volume.<sup>11</sup>

In 2006, the Legislature created the Farm-to-Fuel Grants Program within the DACS to provide matching grants for demonstration, commercialization, and research and development projects relating to bioenergy. In FY 07-08, the Legislature appropriated \$25 million for this program.

The Renewable Energy Technologies Grants Program (created in 2006 and originally administered by the Florida Energy Office within the Department of Environmental Protection), was expanded and renamed the Renewable Energy and Energy-Efficient Technologies Grants Program in 2008.<sup>12</sup> The program provides matching grants for demonstration, commercialization, and research and development projects relating to renewable energy technologies and innovative technologies that significantly increase energy efficiency for vehicles and commercial buildings. The provision stipulates that the FECC coordinate and actively consult with the Department of Agriculture and Consumer Services during the review and approval process of grants relating to bioenergy projects for renewable energy technology. A portion of appropriations for this program have exclusively been for bioenergy projects in FY 06-07 and FY 08-09.<sup>13</sup>

In addition to the energy-related programs that the DACS currently administers, the Department also sponsors an annual Farm-to-Fuel Summit, in which “industry leaders in agriculture, energy, academia and government who want to make Florida a leader in the production of renewable energy” gather to share information and accelerate efforts to promote the production of renewable energy in the state.<sup>14</sup>

### Effect of Proposed Changes

The bill abolishes the Florida Energy and Climate Commission and, except where otherwise specified, provides for a Type Two Transfer of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the Florida Energy Office from the Executive Office of the Governor to the Department of Agriculture and Consumer Services.

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<sup>10</sup> Section 570.954, F.S.

<sup>11</sup> Sections 526.201-526.207, F.S.

<sup>12</sup> The Renewable Energy and Energy-Efficient Technologies Grants Program is currently administered by the FECC.

<sup>13</sup> In \$15 million with at least \$5 million required to fund bioenergy projects in FY 06-07 and \$15 million (\$7 million for renewable energy and energy-efficient technology projects and \$8 million for bioenergy projects) in FY 08-09.

<sup>14</sup> <http://www.florida-agriculture.com/news/06-17-10.htm>.

In addition, the bill does the following:

- Transfers the duties from the FECC for petroleum allocation planning and emergency contingency planning programs to the newly-created Division of Emergency Management within the Executive Office of the Governor.
- Transfers administration of the federal Coastal Energy Impact Program to the Department of Environmental Protection.
- Transfers coordination and review, in consultation with the DACS, of the energy conservation programs of all state agencies to the Department of Management Services.
- Creates the Office of Energy and Water within the DACS.
- Authorizes the DACS to submit an amendment to the Legislative Budget Commission for increased budget authority for a fixed capital outlay appropriation for federal energy grants.
- Makes conforming changes to applicable statutes and cross-references.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

### **D. FISCAL COMMENTS:**

There are 15 fulltime equivalent employees (FTEs) and \$2,149,516 in the operating budget for FY 2011-2012 that will be transferred from the Florida Energy and Climate Commission within the Executive Office of the Governor to the Department of Agriculture and Consumer Services. The remainder of the program is funded through federal funds.