

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Communications, Energy, and Public Utilities Committee

BILL: SB 762

INTRODUCER: Senator Hays

SUBJECT: Florida Climate Protection Act

DATE: March 4, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Carter	CU	Pre-meeting
2.			EP	
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill repeals s. 403.44, F.S., the Florida Climate Protection Act, which authorizes the Department of Environmental Protection (DEP) to adopt rules to create a cap-and-trade regulatory program to reduce greenhouse gas emissions. It also deletes a related provision in s. 366.8255, F.S., on recovery of costs relating to greenhouse gas registries.

The bill takes effect July 1, 2011.

The bill substantially amends sections 403.44 and 366.8255 of the Florida Statutes.

II. Present Situation:

Section 403.44, F.S., the Florida Climate Protection Act, was created in 2008. The statute contains legislative findings that it is in the best interest of the state to document, to the greatest extent practicable, greenhouse gas emissions and to pursue a market-based emissions abatement program, such as cap and trade, to address greenhouse gas emissions reductions. It defines the following terms:

- “Allowance” means a credit issued by DEP through allotments or auction which represents an authorization to emit specific amounts of greenhouse gases, as further defined in department rule.
- “Cap and trade” or “emissions trading” means an administrative approach used to control pollution by providing a limit on total allowable emissions, providing for allowances to emit pollutants, and providing for the transfer of the allowances among pollutant sources as a means of compliance with emission limits.

- “Greenhouse gas” or “GHG” means carbon dioxide, methane, nitrous oxide, and fluorinated gases such as hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.
- “Leakage” means the offset of emission abatement that is achieved in one location subject to emission control regulation by increased emissions in unregulated locations.
- “Major emitter” means an electric utility regulated under chapter 403, which includes all electric utilities.

Each major emitter initially was required to use The Climate Registry for purposes of emission registration and reporting. DEP was required to establish the methodologies, reporting periods, and reporting systems that were to be used when major emitters report to The Climate Registry. These requirements were deleted in 2010. s. 2, ch. 2010-143.

The statute authorizes DEP to adopt rules for a cap-and-trade regulatory program to reduce greenhouse gas emissions from major emitters.

It directs that, when DEP is developing the rules, it must consult with the Florida Energy and Climate Commission and the Florida Public Service Commission and may consult with the Governor’s Action Team for Energy and Climate Change. DEP cannot adopt rules until after January 1, 2010, and the rules cannot become effective until ratified by the Legislature.

The statute requires that the rules of the cap-and-trade regulatory program include the following provisions:

- A statewide limit or cap on the amount of greenhouse gases emitted by major emitters.
- Methods, requirements, and conditions for allocating the cap among major emitters.
- Methods, requirements, and conditions for emissions allowances and the process for issuing emissions allowances.
- The relationship between allowances and the specific amounts of greenhouse gas emissions they represent.
- The length of allowance periods and the time over which entities must account for emissions and surrender allowances equal to emissions.
- The timeline of allowances from the initiation of the program through to 2050.
- A process for the trade of allowances between major emitters, including a registry, tracking, or accounting system for such trades.
- Cost containment mechanisms to reduce price and cost risks associated with the electric generation market in this state.
- A process to allow the department to exercise its authority to discourage leakage of GHG emissions to neighboring states attributable to the implementation of this program.
- Provisions for a trial period on the trading of allowances before full implementation of a trading system.

The statute requires that the following factors be considered in recommending and evaluating proposed features of the cap-and-trade system:

- The overall cost-effectiveness of the cap-and-trade system in combination with other policies and measures in meeting statewide targets.
- Minimizing the administrative burden to the state of implementing, monitoring, and enforcing the program.

- Minimizing the administrative burden on entities covered under the cap.
- The impacts on electricity prices for consumers.
- The specific benefits to the state's economy for early adoption of a cap-and-trade system for greenhouse gases in the context of federal climate change legislation and the development of new international compacts.
- The specific benefits to the state's economy associated with the creation and sale of emissions offsets from economic sectors outside of the emissions cap.
- The potential effects on leakage if economic activity relocates out of the state.
- The effectiveness of the combination of measures in meeting identified targets.
- The implications for near-term periods of long-term targets specified in the overall policy.
- The overall costs and benefits of a cap-and-trade system to the state economy.
- How to moderate impacts on low-income consumers that result from energy price increases.
- Consistency of the program with other state and possible federal efforts.
- The feasibility and cost-effectiveness of extending the program scope as broadly as possible among emitting activities and sinks in Florida.
- Evaluation of the conditions under which Florida should consider linking its trading system to the systems of other states or other countries and how that might be affected by the potential inclusion in the rule of a safety valve.

The statute states that, "recognizing that the international, national, and neighboring state policies and the science of climate change will evolve, prior to submitting the proposed rules to the Legislature for consideration", DEP must submit the proposed rules to the Florida Energy and Climate Commission, which must review the proposed rules and submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and DEP.

The report must address:

- The overall cost-effectiveness of the proposed cap-and-trade system in combination with other policies and measures in meeting statewide targets.
- The administrative burden to the state of implementing, monitoring, and enforcing the program.
- The administrative burden on entities covered under the cap.
- The impacts on electricity prices for consumers.
- The specific benefits to the state's economy for early adoption of a cap-and-trade system for greenhouse gases in the context of federal climate change legislation and the development of new international compacts.
- The specific benefits to the state's economy associated with the creation and sale of emissions offsets from economic sectors outside of the emissions cap.
- The potential effects on leakage if economic activity relocates out of the state.
- The effectiveness of the combination of measures in meeting identified targets.
- The economic implications for near-term periods of short-term and long-term targets specified in the overall policy.
- The overall costs and benefits of a cap-and-trade system to the economy of the state.
- The impacts on low-income consumers that result from energy price increases.
- The consistency of the program with other state and possible federal efforts.

- The evaluation of the conditions under which the state should consider linking its trading system to the systems of other states or other countries and how that might be affected by the potential inclusion in the rule of a safety valve.
- The timing and changes in the external environment, such as proposals by other states or implementation of a federal program that would spur reevaluation of the Florida program.
- The conditions and options for eliminating the Florida program if a federal program were to supplant it.
- The need for a regular reevaluation of the progress of other emitting regions of the country and of the world, and whether other regions are abating emissions in a commensurate manner.
- The desirability of and possibilities of broadening the scope of the state's cap-and-trade system at a later date to include more emitting activities as well as sinks in Florida, the conditions that would need to be met to do so, and how the program would encourage these conditions to be met, including developing monitoring and measuring techniques for land use emissions and sinks, regulating sources upstream, and other considerations.

Section 366.8255, F.S., authorizes an investor-owned electric utility to recover costs of compliance with federal, state, or local environmental laws or regulations. When s. 403.44, F.S., was enacted in 2008, this section was amended to allow recovery of costs or expenses prudently incurred for the quantification, reporting, and third-party verification as required for participation in greenhouse gas emission registries for greenhouse gases.

III. Effect of Proposed Changes:

The bill repeals s. 403.44, F.S., the Florida Climate Protection Act, and deletes the provision in s. 366.8255, F.S., on recovery of costs relating to greenhouse gas registries.

The bill takes effect July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Electric utilities will not incur costs of a state cap-and-trade program. Consequently, their ratepayers will not be required to pay these costs.

C. Government Sector Impact:

DEP may avoid costs associated with rulemaking.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.