

1                   A bill to be entitled  
2     An act relating to energy; amending s. 350.001, F.S.;  
3     requiring the Public Service Commission to consider  
4     certain factors in performing its duties; amending s.  
5     366.82, F.S.; requiring the Public Service Commission  
6     to ensure that utility rate structures are designed to  
7     meet certain goals; providing requirements for such  
8     rate structure determinations; revising provisions  
9     authorizing the commission to establish financial  
10    rewards and penalties relating to such goals;  
11    requiring impact studies for proposed power plants;  
12    providing study requirements; requiring the commission  
13    to initiate specified rulemaking by a certain date;  
14    providing legislative findings; providing definitions;  
15    requiring each electric utility in the state to  
16    collect from each residential, commercial, and  
17    industrial customer a designated monthly systems  
18    charge; requiring the electric utilities to deposit  
19    collected funds into the Sustainable and Renewable  
20    Energy Policy Trust Fund; creating a direct-support  
21    organization for the Office of Energy; providing for a  
22    board of directors of the direct-support organization;  
23    providing for appointment of members and terms of  
24    office; requiring a contract between the office and  
25    the direct-support organization; providing for the use  
26    of the deposited funds; requiring an annual audit;  
27    amending s. 366.91, F.S.; requiring that a purchase  
28    contract offered to producers of renewable energy

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29 contain payment provisions for energy and capacity  
30 based upon a public utility's equivalent cost-recovery  
31 rate for certain clean energy projects rather than the  
32 utility's full avoided costs; amending s. 377.806,  
33 F.S.; revising the expiration date for the Solar  
34 Energy System Incentives Program; extending the period  
35 of time for which residents of the state are eligible  
36 to receive rebates for specified solar energy systems;  
37 revising the rebate amount for eligible solar energy  
38 systems; providing a schedule for rebate amounts based  
39 on the total wattage of the system; providing an  
40 effective date.

41  
42 Be It Enacted by the Legislature of the State of Florida:

43  
44 Section 1. Section 350.001, Florida Statutes, is amended  
45 to read:

46 350.001 Legislative intent.—The Florida Public Service  
47 Commission has been and shall continue to be an arm of the  
48 legislative branch of government. The Public Service Commission  
49 shall perform its duties independently. In performing its  
50 duties, the Public Service Commission shall consider protecting  
51 public health and safety, protecting the environment, ensuring  
52 national security, and increasing economic development and jobs  
53 in the state. It is the desire of the Legislature that the  
54 Governor participate in the appointment process of commissioners  
55 to the Public Service Commission. The Legislature accordingly  
56 delegates to the Governor a limited authority with respect to

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57 the Public Service Commission by authorizing him or her to  
58 participate in the selection of members only in the manner  
59 prescribed by s. 350.031.

60 Section 2. Subsections (8) and (9) of section 366.82,  
61 Florida Statutes, are amended, and subsection (14) is added to  
62 that section, to read:

63 366.82 Definition; goals; plans; programs; annual reports;  
64 energy audits; impact studies.—

65 (8) The commission shall ensure that rate structures are  
66 designed to promote the efficiency of energy consumption and  
67 increase the development of demand-side renewable energy  
68 systems. In determining whether rate structures of the utilities  
69 over which it has ratesetting authority meet such goals, the  
70 commission shall:

71 (a) Prohibit the use of declining block rate structures.

72 (b) Provide for a mechanism to ensure that the recovery of  
73 the revenue requirement authorized by the commission is not  
74 adversely affected by the implementation of energy efficiency  
75 measures promoted by programs approved by the commission under  
76 subsection (7).

77 (c) Provide for a performance-indexed financial reward for  
78 utilities that meet or exceed their goals adopted under  
79 subsection (2).

80 (d) Provide for financial penalties for those utilities  
81 that substantially fail to meet their goals adopted under  
82 subsection (2).

83 (e) Require independent audits of utility estimates of  
84 energy efficiency and demand-side renewable energy system

85 impacts consistent with recognized best practices ~~The commission~~  
 86 ~~may authorize financial rewards for those utilities over which~~  
 87 ~~it has ratesetting authority that exceed their goals and may~~  
 88 ~~authorize financial penalties for those utilities that fail to~~  
 89 ~~meet their goals, including, but not limited to, the sharing of~~  
 90 ~~generation, transmission, and distribution cost savings~~  
 91 ~~associated with conservation, energy efficiency, and demand side~~  
 92 ~~renewable energy systems additions.~~

93 (9) The commission may establish financial rewards and  
 94 penalties in any form or manner that it deems appropriate to  
 95 achieve the purposes identified in subsection (8), if the  
 96 commission determines that the impact of the rewards or  
 97 penalties on an investor-owned electric utility are not  
 98 anticipated to exceed 50 basis points of return on equity. The  
 99 financial rewards and penalties shall be determined in an annual  
 100 cost-recovery proceeding which may be the same as the proceeding  
 101 used to implement the mechanism provided for in paragraph (8) (b)  
 102 ~~The commission is authorized to allow an investor-owned electric~~  
 103 ~~utility an additional return on equity of up to 50 basis points~~  
 104 ~~for exceeding 20 percent of their annual load growth through~~  
 105 ~~energy efficiency and conservation measures. The additional~~  
 106 ~~return on equity shall be established by the commission through~~  
 107 ~~a limited proceeding.~~

108 (14) The commission shall require an impact study for any  
 109 proposed power plant. At a minimum, the study must provide  
 110 projections for the long-term impact of the power plant over its  
 111 lifetime on the environment, public health and safety, economic  
 112 development, and national security, including the costs and

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113 consequences associated with the shutdown and cleanup of the  
114 plant and storage of hazardous byproducts.

115 Section 3. The Public Service Commission shall initiate  
116 rulemaking no later than January 1, 2013, to implement the  
117 amendment to s. 366.82, Florida Statutes, made by this act and  
118 all other provisions of the Florida Energy Efficiency and  
119 Conservation Act pursuant to ss. 366.80-366.85 and 403.519,  
120 Florida Statutes.

121 Section 4. (1) The Legislature finds that there is a need  
122 for a funding mechanism to support and finance a comprehensive  
123 energy policy, especially as it relates to sustainable and  
124 renewable energy, energy conservation, and energy efficiencies.  
125 With such a stable funding mechanism, this state will realize  
126 important long-term goals, including:

127 (a) Increased independence from foreign oil;

128 (b) Ensuring an adequate and reliable energy supply;

129 (c) The promotion of economic growth and new investment in  
130 the creation of high-paying jobs;

131 (d) The mitigation adverse environmental impacts and  
132 promotion of stewardship of the environment;

133 (e) Leading the nation in energy conservation and energy  
134 efficiencies through needed support for implementing and  
135 marketing the products of renewable energy research and  
136 innovation; and

137 (f) Contributing to a sustainable and renewable energy  
138 policy for the state.

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

140 (a) "Direct-support organization" means an organization

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141 that is:

142 1. A Florida corporation, not for profit, incorporated  
143 under chapter 617, Florida Statutes, and approved by the  
144 Department of State;

145 2. Organized and operated exclusively to obtain funds; to  
146 request and receive grants, gifts, and bequests of moneys; to  
147 acquire, receive, hold, invest, and administer in its own name  
148 securities, funds, or property; and to make expenditures to  
149 support the achievement of the goals stated under subsection (1)  
150 and to increase public awareness of and support for the  
151 Sustainable and Renewable Energy Trust Fund; and

152 3. Determined by the office to be operating in a manner  
153 consistent with the goals stated under subsection (1).

154 (b) "Electric utility" means any municipal electric  
155 utility, investor-owned electric utility, or rural electric  
156 cooperative that owns, maintains, or operates an electric  
157 generation, transmission, or distribution system within the  
158 state.

159 (c) "Energy conservation" and "energy efficiencies" means  
160 any activity that facilitates and promotes the use of cost-  
161 effective energy conservation, energy-demand management, and  
162 renewable energy technologies.

163 (d) "Office" means the Office of Energy within the  
164 Department of Agriculture and Consumer Services.

165 (e) "Renewable energy" means solar photovoltaic energy,  
166 solar thermal energy, geothermal energy, ocean thermal energy,  
167 wave or tidal energy, wind, fuel cells, landfill gas, hydrogen  
168 production and hydrogen conversion technologies, low-emission

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169 advanced biomass conversion technologies, alternative fuels used  
170 for electricity generation, including ethanol, biodiesel, or  
171 other fuel produced in this state and derived from agricultural  
172 produce, algae, food waste, or waste vegetable oil, usable  
173 electricity from combined heat and power systems that have waste  
174 heat recovery systems, thermal storage systems, and other energy  
175 resources and emerging technologies that have significant  
176 potential for commercialization and that do not involve the  
177 combustion of coal, petroleum or petroleum products, municipal  
178 solid waste, or nuclear fission.

179 (3) Beginning January 1, 2013, each electric utility shall  
180 collect from each residential, commercial, and industrial  
181 electric utility customer a monthly charge of 25 cents as a  
182 systems benefits charge. The electric utilities shall deposit  
183 the collected funds into the Sustainable and Renewable Energy  
184 Policy Trust Fund.

185 (4) (a) The office shall establish a direct-support  
186 organization to provide assistance, funding, and support for the  
187 office in carrying out its mission. This section governs the  
188 creation, use, powers, and duties of the direct-support  
189 organization.

190 (b) The direct-support organization shall be governed by a  
191 board of directors. The board of directors shall consist of nine  
192 members, as follows:

193 1. The chair of the Florida Public Service Commission, or  
194 his or her designee.

195 2. The Secretary of Environmental Protection, or his or  
196 her designee.

197       3. Two members appointed by the Governor, both of whom are  
 198 residential electric utility customers and one of whom has  
 199 experience relating to low-income housing concerns.

200       4. Two members appointed by the President of the Senate.

201       5. Two members appointed by the Speaker of the House of  
 202 Representatives.

203       6. One member appointed by the Chief Financial Officer who  
 204 has experience related to renewable energy business or  
 205 commercial investments.

206       (c) The term of office of the board members shall be 3  
 207 years. The terms of the initial appointees shall be for 1 year,  
 208 2 years, or 3 years in order to achieve staggered terms. A  
 209 member may be reappointed when his or her term expires. The head  
 210 of the office or his or her designee shall serve as an ex  
 211 officio member of the board of directors.

212       (d) Members must be residents of this state. A majority of  
 213 the members must be actively involved with sustainable and  
 214 renewable energy systems and highly knowledgeable about the  
 215 office, its research, and its mission. A member may be removed  
 216 by the Governor, the President of the Senate, the Speaker of the  
 217 House of Representatives, or the Chief Financial Officer for  
 218 cause and with the approval of a majority of the members of the  
 219 board of directors. A vacancy shall be filled in the same manner  
 220 as the initial appointment.

221       (e) The direct-support organization shall operate under a  
 222 written contract with the office. The written contract must  
 223 provide for:

224       1. Certification by the office that the direct-support



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225 organization is complying with the terms of the contract and is  
226 doing so consistent with the goals and purposes of the  
227 department and in the best interests of the state. This  
228 certification must be made annually and reported in the official  
229 minutes of a meeting of the direct-support organization.

230 2. The reversion of moneys and property held by the  
231 direct-support organization:

232 a. To the office, if the direct-support organization is no  
233 longer approved to operate for the office or if the direct  
234 support organization ceases to exist; or

235 b. To the state, if the office ceases to exist.

236 3. The disclosure of the material provisions of the  
237 contract and the distinction between the office and the direct-  
238 support organization to donors of gifts, contributions, or  
239 bequests, including such disclosure on all promotional and  
240 fundraising publications.

241 (f)1. The office may permit the use of its property,  
242 facilities, and personal services by the direct-support  
243 organization, subject to this section.

244 2. The office may prescribe by contract any condition with  
245 which the direct-support organization must comply in order to  
246 use property, facilities, or personal services of the office.

247 3. The office may not permit the use of its property,  
248 facilities, or personal services by any direct-support  
249 organization organized under this section which does not provide  
250 equal employment opportunities to all persons regardless of  
251 race, color, national origin, gender, age, or religion.

252 (g) Any transaction or agreement between the direct-

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253 support organization created by this section and another direct-  
254 support organization or other entity must be approved by the  
255 Governor.

256 (h) All moneys received by the direct-support organization  
257 from federal and state grants, private contributions, and the  
258 Sustainable and Renewable Energy Policy Trust Fund shall be  
259 deposited into an account of the direct-support organization.  
260 The direct-support organization shall use the collected charges  
261 to support funding for sustainable and renewable energy  
262 projects, including, but not limited to, low-interest loans or  
263 grants to provide funding in the following order of priority:

264 1. Any backlog of approved rebate applications for the  
265 Solar Energy Systems Incentive Program.

266 2. The implementation of innovation to market projects,  
267 with specific attention directed toward the number of in-state  
268 jobs created.

269 3. Energy conservation and energy efficiency projects,  
270 with specific attention directed to projects for low-income  
271 housing, including rental units, rental homes, condominiums, and  
272 single-family homes.

273 (i)1. The fiscal year of the direct-support organization  
274 shall begin on July 1 of each year and end on June 30 of the  
275 following year.

276 2. The direct-support organization shall submit to the  
277 office its federal Internal Revenue Service Application for  
278 Recognition of Exemption form and its federal Internal Revenue  
279 Service Return of Organization Exempt from Income Tax form.

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280        (j) The direct-support organization shall provide for an  
281 annual financial audit in accordance with s. 215.981, Florida  
282 Statutes.

283        Section 5. Subsection (3) of section 366.91, Florida  
284 Statutes, is amended to read:

285        366.91 Renewable energy.—

286        (3) On or before January 1, 2006, each public utility must  
287 continuously offer a purchase contract to producers of renewable  
288 energy. The commission shall establish requirements relating to  
289 the purchase of capacity and energy by public utilities from  
290 renewable energy producers and may adopt rules to administer  
291 this section. The contract shall contain payment provisions for  
292 energy and capacity which are based upon the utility's  
293 equivalent cost-recovery rate for projects constructed pursuant  
294 to s. 366.92(4) full avoided costs, as defined in s. 366.051;  
295 however, capacity payments are not required if, due to the  
296 operational characteristics of the renewable energy generator or  
297 the anticipated peak and off-peak availability and capacity  
298 factor of the utility's avoided unit, the producer is unlikely  
299 to provide any capacity value to the utility or the electric  
300 grid during the contract term. Each contract must provide a  
301 contract term of at least 10 years. Prudent and reasonable costs  
302 associated with a renewable energy contract shall be recovered  
303 from the ratepayers of the contracting utility, without  
304 differentiation among customer classes, through the appropriate  
305 cost-recovery clause mechanism administered by the commission.

306        Section 6. Subsection (1) and paragraph (b) of subsection  
307 (2) of section 377.806, Florida Statutes, are amended to read:

308 | 377.806 Solar Energy System Incentives Program.—

309 | (1) PURPOSE.—The Solar Energy System Incentives Program is  
 310 | established within the Department of Agriculture and Consumer  
 311 | Services to provide financial incentives for the purchase and  
 312 | installation of solar energy systems. Any resident of the state  
 313 | who purchases and installs a new solar energy system of 2  
 314 | kilowatts or larger for a solar photovoltaic system, a solar  
 315 | energy system that provides at least 50 percent of a building's  
 316 | hot water consumption for a solar thermal system, or a solar  
 317 | thermal pool heater, from July 1, 2006, through June 30, 2016  
 318 | ~~2010~~, is eligible for a rebate on a portion of the purchase  
 319 | price of that solar energy system.

320 | (2) SOLAR PHOTOVOLTAIC SYSTEM INCENTIVE.—

321 | (b) Rebate amounts.—The rebate amount shall be set at  
 322 | \$2.50 ~~\$4~~ per watt for fiscal year 2012-2013, \$2 per watt for  
 323 | fiscal years 2013-2014 and 2014-2015, and \$1.50 per watt for  
 324 | each subsequent fiscal year, based on the total wattage rating  
 325 | of the system. The maximum allowable rebate per solar  
 326 | photovoltaic system installation shall be as follows:

- 327 | 1. Twenty thousand dollars for a residence.
- 328 | 2. One hundred thousand dollars for a place of business, a  
 329 | publicly owned or operated facility, or a facility owned or  
 330 | operated by a private, not-for-profit organization, including  
 331 | condominiums or apartment buildings.

332 | Section 7. This act shall take effect July 1, 2012.