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LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/2R	.	Floor: SEN1/C
03/08/2012 07:48 PM	.	03/09/2012 10:44 AM
	.	

Senator Gardiner moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (2) of section
163.08, Florida Statutes, is amended to read:

163.08 Supplemental authority for improvements to real
property.—

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

(a) "Local government" means a county, a municipality, ~~or~~ a
dependent special district as defined in s. 189.403, or a
separate legal entity created pursuant to s. 163.01(7).

Section 2. Subsection (2) of section 186.801, Florida



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14 Statutes, is amended to read:

15 186.801 Ten-year site plans.—

16 (2) Within 9 months after the receipt of the proposed plan,
17 the commission shall make a preliminary study of such plan and
18 classify it as "suitable" or "unsuitable." The commission may
19 suggest alternatives to the plan. All findings of the commission
20 shall be made available to the Department of Environmental
21 Protection for its consideration at any subsequent electrical
22 power plant site certification proceedings. It is recognized
23 that 10-year site plans submitted by an electric utility are
24 tentative information for planning purposes only and may be
25 amended at any time at the discretion of the utility upon
26 written notification to the commission. A complete application
27 for certification of an electrical power plant site under
28 chapter 403, when such site is not designated in the current 10-
29 year site plan of the applicant, shall constitute an amendment
30 to the 10-year site plan. In its preliminary study of each 10-
31 year site plan, the commission shall consider such plan as a
32 planning document and shall review:

33 (a) The need, including the need as determined by the
34 commission, for electrical power in the area to be served.

35 (b) The effect on fuel diversity within the state.

36 (c) The anticipated environmental impact of each proposed
37 electrical power plant site.

38 (d) Possible alternatives to the proposed plan.

39 (e) The views of appropriate local, state, and federal
40 agencies, including the views of the appropriate water
41 management district as to the availability of water and its
42 recommendation as to the use by the proposed plant of salt water



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43 or fresh water for cooling purposes.

44 (f) The extent to which the plan is consistent with the
45 state comprehensive plan.

46 (g) The plan with respect to the information of the state
47 on energy availability and consumption.

48 (h) The amount of renewable energy resources the utility
49 produces or purchases.

50 (i) The amount of renewable energy resources the utility
51 plans to produce or purchase over the 10-year planning horizon
52 and the means by which the production or purchases will be
53 achieved.

54 (j) A statement describing how the production and purchase
55 of renewable energy resources impact the utility's present and
56 future capacity and energy needs.

57 Section 3. Paragraph (d) of subsection (2) of section
58 212.055, Florida Statutes, is amended to read:

59 212.055 Discretionary sales surtaxes; legislative intent;
60 authorization and use of proceeds.—It is the legislative intent
61 that any authorization for imposition of a discretionary sales
62 surtax shall be published in the Florida Statutes as a
63 subsection of this section, irrespective of the duration of the
64 levy. Each enactment shall specify the types of counties
65 authorized to levy; the rate or rates which may be imposed; the
66 maximum length of time the surtax may be imposed, if any; the
67 procedure which must be followed to secure voter approval, if
68 required; the purpose for which the proceeds may be expended;
69 and such other requirements as the Legislature may provide.
70 Taxable transactions and administrative procedures shall be as
71 provided in s. 212.054.



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72 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

73 (d) The proceeds of the surtax authorized by this
74 subsection and any accrued interest shall be expended by the
75 school district, within the county and municipalities within the
76 county, or, in the case of a negotiated joint county agreement,
77 within another county, to finance, plan, and construct
78 infrastructure; to acquire land for public recreation,
79 conservation, or protection of natural resources; to provide
80 loans, grants, or rebates to residential or commercial property
81 owners who make energy efficiency improvements to their
82 residential or commercial property, if a local government
83 ordinance authorizing such use is approved by referendum; or to
84 finance the closure of county-owned or municipally owned solid
85 waste landfills that have been closed or are required to be
86 closed by order of the Department of Environmental Protection.
87 Any use of the proceeds or interest for purposes of landfill
88 closure before July 1, 1993, is ratified. The proceeds and any
89 interest may not be used for the operational expenses of
90 infrastructure, except that a county that has a population of
91 fewer than 75,000 and that is required to close a landfill may
92 use the proceeds or interest for long-term maintenance costs
93 associated with landfill closure. Counties, as defined in s.
94 125.011, and charter counties may, in addition, use the proceeds
95 or interest to retire or service indebtedness incurred for bonds
96 issued before July 1, 1987, for infrastructure purposes, and for
97 bonds subsequently issued to refund such bonds. Any use of the
98 proceeds or interest for purposes of retiring or servicing
99 indebtedness incurred for refunding bonds before July 1, 1999,
100 is ratified.



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101 1. For the purposes of this paragraph, the term
102 "infrastructure" means:

103 a. Any fixed capital expenditure or fixed capital outlay
104 associated with the construction, reconstruction, or improvement
105 of public facilities that have a life expectancy of 5 or more
106 years and any related land acquisition, land improvement,
107 design, and engineering costs.

108 b. A fire department vehicle, an emergency medical service
109 vehicle, a sheriff's office vehicle, a police department
110 vehicle, or any other vehicle, and the equipment necessary to
111 outfit the vehicle for its official use or equipment that has a
112 life expectancy of at least 5 years.

113 c. Any expenditure for the construction, lease, or
114 maintenance of, or provision of utilities or security for,
115 facilities, as defined in s. 29.008.

116 d. Any fixed capital expenditure or fixed capital outlay
117 associated with the improvement of private facilities that have
118 a life expectancy of 5 or more years and that the owner agrees
119 to make available for use on a temporary basis as needed by a
120 local government as a public emergency shelter or a staging area
121 for emergency response equipment during an emergency officially
122 declared by the state or by the local government under s.

123 252.38. Such improvements are limited to those necessary to
124 comply with current standards for public emergency evacuation
125 shelters. The owner must enter into a written contract with the
126 local government providing the improvement funding to make the
127 private facility available to the public for purposes of
128 emergency shelter at no cost to the local government for a
129 minimum of 10 years after completion of the improvement, with



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130 the provision that the obligation will transfer to any
131 subsequent owner until the end of the minimum period.

132 e. Any land acquisition expenditure for a residential
133 housing project in which at least 30 percent of the units are
134 affordable to individuals or families whose total annual
135 household income does not exceed 120 percent of the area median
136 income adjusted for household size, if the land is owned by a
137 local government or by a special district that enters into a
138 written agreement with the local government to provide such
139 housing. The local government or special district may enter into
140 a ground lease with a public or private person or entity for
141 nominal or other consideration for the construction of the
142 residential housing project on land acquired pursuant to this
143 sub-subparagraph.

144 2. For the purposes of this paragraph, the term "energy
145 efficiency improvement" means any energy conservation and
146 efficiency improvement that reduces consumption through
147 conservation or a more efficient use of electricity, natural
148 gas, propane, or other forms of energy on the property,
149 including, but not limited to, air sealing; installation of
150 insulation; installation of energy-efficient heating, cooling,
151 or ventilation systems; installation of solar panels; building
152 modifications to increase the use of daylight or shade;
153 replacement of windows; installation of energy controls or
154 energy recovery systems; installation of electric vehicle
155 charging equipment; and installation of efficient lighting
156 equipment.

157 3.2. Notwithstanding any other provision of this
158 subsection, a local government infrastructure surtax imposed or



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159 extended after July 1, 1998, may allocate up to 15 percent of
160 the surtax proceeds for deposit in a trust fund within the
161 county's accounts created for the purpose of funding economic
162 development projects having a general public purpose of
163 improving local economies, including the funding of operational
164 costs and incentives related to economic development. The ballot
165 statement must indicate the intention to make an allocation
166 under the authority of this subparagraph.

167 Section 4. Paragraph (hhh) is added to subsection (7) of
168 section 212.08, Florida Statutes, to read:

169 212.08 Sales, rental, use, consumption, distribution, and
170 storage tax; specified exemptions.—The sale at retail, the
171 rental, the use, the consumption, the distribution, and the
172 storage to be used or consumed in this state of the following
173 are hereby specifically exempt from the tax imposed by this
174 chapter.

175 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
176 entity by this chapter do not inure to any transaction that is
177 otherwise taxable under this chapter when payment is made by a
178 representative or employee of the entity by any means,
179 including, but not limited to, cash, check, or credit card, even
180 when that representative or employee is subsequently reimbursed
181 by the entity. In addition, exemptions provided to any entity by
182 this subsection do not inure to any transaction that is
183 otherwise taxable under this chapter unless the entity has
184 obtained a sales tax exemption certificate from the department
185 or the entity obtains or provides other documentation as
186 required by the department. Eligible purchases or leases made
187 with such a certificate must be in strict compliance with this



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188 subsection and departmental rules, and any person who makes an
189 exempt purchase with a certificate that is not in strict
190 compliance with this subsection and the rules is liable for and
191 shall pay the tax. The department may adopt rules to administer
192 this subsection.

193 (hhh) Equipment, machinery, and other materials for
194 renewable energy technologies.-

195 1. As used in this paragraph, the term:

196 a. "Biodiesel" means the mono-alkyl esters of long-chain
197 fatty acids derived from plant or animal matter for use as a
198 source of energy and meeting the specifications for biodiesel
199 and biodiesel blends with petroleum products as adopted by rule
200 of the Department of Agriculture and Consumer Services.
201 "Biodiesel" may refer to biodiesel blends designated BXX, where
202 XX represents the volume percentage of biodiesel fuel in the
203 blend.

204 b. "Ethanol" means an anhydrous denatured alcohol produced
205 by the conversion of carbohydrates meeting the specifications
206 for fuel ethanol and fuel ethanol blends with petroleum products
207 as adopted by rule of the Department of Agriculture and Consumer
208 Services. "Ethanol" may refer to fuel ethanol blends designated
209 EXX, where XX represents the volume percentage of fuel ethanol
210 in the blend.

211 c. "Renewable fuel" means a fuel produced from biomass that
212 is used to replace or reduce the quantity of fossil fuel present
213 in motor fuel or diesel fuel. "Biomass" means biomass as defined
214 in s. 366.91, "motor fuel" means motor fuel as defined in s.
215 206.01, and "diesel fuel" means diesel fuel as defined in s.
216 206.86.



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217 2. The sale or use in the state of the following is exempt
218 from the tax imposed by this chapter. Materials used in the
219 distribution of biodiesel (B10-B100), ethanol (E10-E100), and
220 other renewable fuels, including fueling infrastructure,
221 transportation, and storage, up to a limit of \$1 million in tax
222 each state fiscal year for all taxpayers. Gasoline fueling
223 station pump retrofits for biodiesel (B10-B100), ethanol (E10-
224 E100), and other renewable fuel distribution qualify for the
225 exemption provided in this paragraph.

226 3. The Department of Agriculture and Consumer Services
227 shall provide to the department a list of items eligible for the
228 exemption provided in this paragraph.

229 4.a. The exemption provided in this paragraph shall be
230 available to a purchaser only through a refund of previously
231 paid taxes. An eligible item is subject to refund one time. A
232 person who has received a refund on an eligible item shall
233 notify the next purchaser of the item that the item is no longer
234 eligible for a refund of paid taxes. The notification shall be
235 provided to each subsequent purchaser on the sales invoice or
236 other proof of purchase.

237 b. To be eligible to receive the exemption provided in this
238 paragraph, a purchaser shall file an application with the
239 Department of Agriculture and Consumer Services. The application
240 shall be developed by the Department of Agriculture and Consumer
241 Services, in consultation with the department, and shall
242 require:

243 (I) The name and address of the person claiming the refund.

244 (II) A specific description of the purchase for which a
245 refund is sought, including, when applicable, a serial number or



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246 other permanent identification number.

247 (III) The sales invoice or other proof of purchase showing
248 the amount of sales tax paid, the date of purchase, and the name
249 and address of the sales tax dealer from whom the property was
250 purchased.

251 (IV) A sworn statement that the information provided is
252 accurate and that the requirements of this paragraph have been
253 met.

254 c. Within 30 days after receipt of an application, the
255 Department of Agriculture and Consumer Services shall review the
256 application and notify the applicant of any deficiencies. Upon
257 receipt of a completed application, the Department of
258 Agriculture and Consumer Services shall evaluate the application
259 for the exemption and issue a written certification that the
260 applicant is eligible for a refund or issue a written denial of
261 such certification. The Department of Agriculture and Consumer
262 Services shall provide the department a copy of each
263 certification issued upon approval of an application.

264 d. Each certified applicant is responsible for applying for
265 the refund and forwarding the certification that the applicant
266 is eligible to the department within 6 months after
267 certification by the Department of Agriculture and Consumer
268 Services.

269 e. A refund approved pursuant to this paragraph shall be
270 made within 30 days after formal approval by the department.

271 f. The Department of Agriculture and Consumer Services may
272 adopt by rule the form for the application for a certificate,
273 requirements for the content and format of information submitted
274 to the Department of Agriculture and Consumer Services in



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275 support of the application, other procedural requirements, and
276 criteria by which the application will be determined. The
277 Department of Agriculture and Consumer Services may adopt other
278 rules pursuant to ss. 120.536(1) and 120.54 to administer this
279 paragraph, including rules establishing additional forms and
280 procedures for claiming the exemption.

281 g. The Department of Agriculture and Consumer Services
282 shall be responsible for ensuring that the total amount of the
283 exemptions authorized do not exceed the limits specified in
284 subparagraph 2.

285 5. Approval of the exemptions under this paragraph is on a
286 first-come, first-served basis, based upon the date complete
287 applications are received by the Department of Agriculture and
288 Consumer Services. Incomplete placeholder applications shall not
289 be accepted and shall not secure a place in the first-come,
290 first-served application line. The Department of Agriculture and
291 Consumer Services shall determine and publish on its website on
292 a regular basis the amount of sales tax funds remaining in each
293 fiscal year.

294 6. This paragraph expires July 1, 2016.

295 Section 5. Paragraph (w) of subsection (8) of section
296 213.053, Florida Statutes, is amended to read:

297 213.053 Confidentiality and information sharing.—

298 (8) Notwithstanding any other provision of this section,
299 the department may provide:

300 (w) Information relative to ss. 212.08(7) (hhh), 220.192,
301 and 220.193 ~~ss. 220.192~~ to the Department of Agriculture and
302 Consumer Services for use in the conduct of its official
303 business.



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305 Disclosure of information under this subsection shall be
306 pursuant to a written agreement between the executive director
307 and the agency. Such agencies, governmental or nongovernmental,
308 shall be bound by the same requirements of confidentiality as
309 the Department of Revenue. Breach of confidentiality is a
310 misdemeanor of the first degree, punishable as provided by s.
311 775.082 or s. 775.083.

312 Section 6. Subsections (1), (2), (4), (6), (7), and (8) of
313 section 220.192, Florida Statutes, are amended to read:

314 220.192 Renewable energy technologies investment tax
315 credit.—

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

317 (a) "Biodiesel" means biodiesel as defined in s.
318 212.08(7)(hhh) former s. 212.08(7)(ccc).

319 (b) "Corporation" includes a general partnership, limited
320 partnership, limited liability company, unincorporated business,
321 or other business entity, including entities taxed as
322 partnerships for federal income tax purposes.

323 (c) "Eligible costs" means:

324 ~~1. Seventy-five percent of all capital costs, operation and~~
325 ~~maintenance costs, and research and development costs incurred~~
326 ~~between July 1, 2006, and June 30, 2010, up to a limit of \$3~~
327 ~~million per state fiscal year for all taxpayers, in connection~~
328 ~~with an investment in hydrogen-powered vehicles and hydrogen~~
329 ~~vehicle fueling stations in the state, including, but not~~
330 ~~limited to, the costs of constructing, installing, and equipping~~
331 ~~such technologies in the state.~~

332 ~~2. Seventy-five percent of all capital costs, operation and~~



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333 ~~maintenance costs, and research and development costs incurred~~
334 ~~between July 1, 2006, and June 30, 2010, up to a limit of \$1.5~~
335 ~~million per state fiscal year for all taxpayers, and limited to~~
336 ~~a maximum of \$12,000 per fuel cell, in connection with an~~
337 ~~investment in commercial stationary hydrogen fuel cells in the~~
338 ~~state, including, but not limited to, the costs of constructing,~~
339 ~~installing, and equipping such technologies in the state.~~

340 3. 75 ~~Seventy-five~~ percent of all capital costs, operation
341 and maintenance costs, and research and development costs
342 incurred between July 1, 2012 ~~2006~~, and June 30, 2016 ~~2010~~, not
343 to exceed \$1 million per state fiscal year for each taxpayer and
344 up to a limit of \$10 ~~\$6.5~~ million per state fiscal year for all
345 taxpayers, in connection with an investment in the production,
346 storage, and distribution of biodiesel (B10-B100), and ethanol
347 (E10-E100), and other renewable fuel in the state, including the
348 costs of constructing, installing, and equipping such
349 technologies in the state. Gasoline fueling station pump
350 retrofits for biodiesel (B10-B100), ethanol (E10-E100), and
351 other renewable fuel distribution qualify as an eligible cost
352 under this section ~~subparagraph~~.

353 (d) "Ethanol" means ethanol as defined in s. 212.08(7) (hhh)
354 ~~former s. 212.08(7) (ccc)~~.

355 (e) "Renewable fuel" means a fuel produced from biomass
356 that is used to replace or reduce the quantity of fossil fuel
357 present in motor fuel or diesel fuel. "Biomass" means biomass as
358 defined in s. 366.91, "motor fuel" means motor fuel as defined
359 in s. 206.01, and "diesel fuel" means diesel fuel as defined in
360 s. 206.86.

361 ~~(e) "Hydrogen fuel cell" means hydrogen fuel cell as~~



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362 ~~defined in former s. 212.08(7)(ccc).~~

363 (f) "Taxpayer" includes a corporation as defined in
364 paragraph (b) or s. 220.03.

365 (2) TAX CREDIT.—For tax years beginning on or after January
366 1, 2013 ~~2007~~, a credit against the tax imposed by this chapter
367 shall be granted in an amount equal to the eligible costs.
368 Credits may be used in tax years beginning January 1, 2013 ~~2007~~,
369 and ending December 31, 2016 ~~2010~~, after which the credit shall
370 expire. If the credit is not fully used in any one tax year
371 because of insufficient tax liability on the part of the
372 corporation, the unused amount may be carried forward and used
373 in tax years beginning January 1, 2013 ~~2007~~, and ending December
374 31, 2018 ~~2012~~, after which the credit carryover expires and may
375 not be used. A taxpayer that files a consolidated return in this
376 state as a member of an affiliated group under s. 220.131(1) may
377 be allowed the credit on a consolidated return basis up to the
378 amount of tax imposed upon the consolidated group. Any eligible
379 cost for which a credit is claimed and which is deducted or
380 otherwise reduces federal taxable income shall be added back in
381 computing adjusted federal income under s. 220.13.

382 (4) TAXPAYER APPLICATION PROCESS.—To claim a credit under
383 this section, each taxpayer must apply to the Department of
384 Agriculture and Consumer Services for an allocation of each type
385 of annual credit by the date established by the Department of
386 Agriculture and Consumer Services. The application form adopted
387 by rule of the Department of Agriculture and Consumer Services
388 must include an affidavit from each taxpayer certifying that all
389 information contained in the application, including all records
390 of eligible costs claimed as the basis for the tax credit, are



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391 true and correct. Approval of the credits under this section is
392 on a first-come, first-served basis, based upon the date
393 complete applications are received by the Department of
394 Agriculture and Consumer Services. A taxpayer must submit only
395 one complete application based upon eligible costs incurred
396 within a particular state fiscal year. Incomplete placeholder
397 applications will not be accepted and will not secure a place in
398 the first-come, first-served application line. If a taxpayer
399 does not receive a tax credit allocation due to the exhaustion
400 of the annual tax credit authorizations, then such taxpayer may
401 reapply in the following year for those eligible costs and will
402 have priority over other applicants for the allocation of
403 credits. If the annual tax credit authorization amount is not
404 exhausted by allocations of credits within that particular state
405 fiscal year, any authorized but unallocated credit amounts may
406 be used to grant credits that were earned pursuant to s. 220.193
407 but unallocated due to a lack of authorized funds.

408 (6) TRANSFERABILITY OF CREDIT.—

409 (a) For tax years beginning on or after January 1, 2014
410 ~~2009~~, any corporation or subsequent transferee allowed a tax
411 credit under this section may transfer the credit, in whole or
412 in part, to any taxpayer by written agreement without
413 transferring any ownership interest in the property generating
414 the credit or any interest in the entity owning such property.
415 The transferee is entitled to apply the credits against the tax
416 with the same effect as if the transferee had incurred the
417 eligible costs.

418 (b) To perfect the transfer, the transferor shall provide
419 the Department of Revenue with a written transfer statement



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420 notifying the Department of Revenue of the transferor's intent
421 to transfer the tax credits to the transferee; the date the
422 transfer is effective; the transferee's name, address, and
423 federal taxpayer identification number; the tax period; and the
424 amount of tax credits to be transferred. The Department of
425 Revenue shall, upon receipt of a transfer statement conforming
426 to the requirements of this section, provide the transferee with
427 a certificate reflecting the tax credit amounts transferred. A
428 copy of the certificate must be attached to each tax return for
429 which the transferee seeks to apply such tax credits.

430 (c) A tax credit authorized under this section that is held
431 by a corporation and not transferred under this subsection shall
432 be passed through to the taxpayers designated as partners,
433 members, or owners, respectively, in the manner agreed to by
434 such persons regardless of whether such partners, members, or
435 owners are allocated or allowed any portion of the federal
436 energy tax credit for the eligible costs. A corporation that
437 passes the credit through to a partner, member, or owner must
438 comply with the notification requirements described in paragraph
439 (b). The partner, member, or owner must attach a copy of the
440 certificate to each tax return on which the partner, member, or
441 owner claims any portion of the credit.

442 (7) RULES.—The Department of Revenue and the Department of
443 Agriculture and Consumer Services shall have the authority to
444 adopt rules pursuant to ss. 120.536(1) and 120.54 to administer
445 this section, including rules relating to:

446 (a) The forms required to claim a tax credit under this
447 section, the requirements and basis for establishing an
448 entitlement to a credit, and the examination and audit



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449 procedures required to administer this section.

450 (b) The implementation and administration of the provisions
451 allowing a transfer of a tax credit, including rules prescribing
452 forms, reporting requirements, and specific procedures,
453 guidelines, and requirements necessary to transfer a tax credit.

454 (8) PUBLICATION.—The Department of Agriculture and Consumer
455 Services shall determine and publish on its website on a regular
456 basis the amount of available tax credits remaining in each
457 fiscal year.

458 Section 7. Section 220.193, Florida Statutes, is amended to
459 read:

460 220.193 Florida renewable energy production credit.—

461 (1) The purpose of this section is to encourage the
462 development and expansion of facilities that produce renewable
463 energy in Florida.

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

465 (a) "Commission" means ~~shall mean~~ the Public Service
466 Commission.

467 (b) "Department" means ~~shall mean~~ the Department of
468 Revenue.

469 (c) "Expanded facility" means ~~shall mean~~ a Florida
470 renewable energy facility that increases its electrical
471 production and sale by more than 5 percent above the facility's
472 electrical production and sale during the 2011 ~~2005~~ calendar
473 year.

474 (d) "Florida renewable energy facility" means ~~shall mean~~ a
475 facility in the state that produces electricity for sale from
476 renewable energy, as defined in s. 377.803.

477 (e) "New facility" means ~~shall mean~~ a Florida renewable



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478 energy facility that is operationally placed in service after
479 May 1, 2006. The term includes a Florida renewable energy
480 facility that has had an expansion operationally placed in
481 service after May 1, 2006, and whose cost exceeded 50 percent of
482 the assessed value of the facility immediately before the
483 expansion.

484 (f) "Sale" or "sold" includes the use of electricity by the
485 producer of such electricity which decreases the amount of
486 electricity that the producer would otherwise have to purchase.

487 (g) "Taxpayer" includes a general partnership, limited
488 partnership, limited liability company, trust, or other
489 artificial entity in which a corporation, as defined in s.
490 220.03(1)(e), owns an interest and is taxed as a partnership or
491 is disregarded as a separate entity from the corporation under
492 this chapter.

493 (3) An annual credit against the tax imposed by this
494 section shall be allowed to a taxpayer, based on the taxpayer's
495 production and sale of electricity from a new or expanded
496 Florida renewable energy facility. For a new facility, the
497 credit shall be based on the taxpayer's sale of the facility's
498 entire electrical production. For an expanded facility, the
499 credit shall be based on the increases in the facility's
500 electrical production that are achieved after May 1, 2012 ~~2006~~.

501 (a) The credit shall be \$0.01 for each kilowatt-hour of
502 electricity produced and sold by the taxpayer to an unrelated
503 party during a given tax year.

504 (b) The credit may be claimed for electricity produced and
505 sold on or after January 1, 2013 ~~2007~~. Beginning in 2014 ~~2008~~
506 and continuing until 2017 ~~2011~~, each taxpayer claiming a credit



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507 under this section must ~~first~~ apply to the Department of
508 Agriculture and Consumer Services by the date established by the
509 Department of Agriculture and Consumer Services by February 1 of
510 each year for an allocation of available credits for that year
511 ~~credit~~. The application form shall be adopted by rule of the
512 Department of Agriculture and Consumer Services in consultation
513 with the commission. The department, in consultation with the
514 ~~commission, shall develop an application form.~~ The application
515 form shall, at a minimum, require a sworn affidavit from each
516 taxpayer certifying the increase in production and sales that
517 form the basis of the application and certifying that all
518 information contained in the application is true and correct.

519 (c) If the amount of credits applied for each year exceeds
520 the amount authorized in paragraph (g) \$5 million, the
521 Department of Agriculture and Consumer Services shall allocate
522 credits to qualified applicants based on the following priority:
523 ~~shall award to each applicant a prorated amount based on each~~
524 ~~applicant's increased production and sales and the increased~~
525 ~~production and sales of all applicants.~~

526 1. An applicant who places a new facility in operation
527 after May 1, 2012, shall be allocated credits first, up to a
528 maximum of \$250,000 each, with any remaining credits to be
529 granted pursuant to subparagraph 3., but if the claims for
530 credits under this subparagraph exceed the state fiscal year cap
531 in paragraph (g), credits shall be allocated pursuant to this
532 subparagraph on a prorated basis based upon each applicant's
533 qualified production and sales as a percentage of total
534 production and sales for all applicants in this category for the
535 fiscal year.



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536 2. An applicant who does not qualify under subparagraph 1.
537 but who claims a credit of \$50,000 or less shall be allocated
538 credits next, but if the claims for credits under this
539 subparagraph, combined with credits allocated in subparagraph 1.
540 exceed the state fiscal year cap in paragraph (g), credits shall
541 be allocated pursuant to this subparagraph on a prorated basis
542 based upon each applicant's qualified production and sales as a
543 percentage of total qualified production and sales for all
544 applicants in this category for the fiscal year.

545 3. An applicant who does not qualify under subparagraph 1.
546 or subparagraph 2. and an applicant whose credits have not been
547 fully allocated under subparagraph 1., shall be allocated
548 credits next. If there is insufficient capacity within the
549 amount authorized for the state fiscal year in paragraph (g),
550 and after allocations pursuant to subparagraphs 1. and 2., the
551 credits allocated under this subparagraph shall be prorated
552 based upon each applicant's unallocated claims for qualified
553 production and sales as a percentage of total unallocated claims
554 for qualified production and sales of all applicants in this
555 category, up to a maximum of \$1 million per taxpayer per state
556 fiscal year. If, after application of this \$1 million cap, there
557 is excess capacity under the state fiscal year cap in paragraph
558 (g) in any state fiscal year, that remaining capacity shall be
559 used to allocate additional credits with priority given in the
560 order set forth in this subparagraph and without regard to the
561 \$1 million per taxpayer cap.

562 (d) If the credit granted pursuant to this section is not
563 fully used in one year because of insufficient tax liability on
564 the part of the taxpayer, the unused amount may be carried



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565 forward for a period not to exceed 5 years. The carryover credit
566 may be used in a subsequent year when the tax imposed by this
567 chapter for such year exceeds the credit for such year, after
568 applying the other credits and unused credit carryovers in the
569 order provided in s. 220.02(8).

570 (e) A taxpayer that files a consolidated return in this
571 state as a member of an affiliated group under s. 220.131(1) may
572 be allowed the credit on a consolidated return basis up to the
573 amount of tax imposed upon the consolidated group.

574 (f)1. Tax credits that may be available under this section
575 to an entity eligible under this section may be transferred
576 after a merger or acquisition to the surviving or acquiring
577 entity and used in the same manner with the same limitations.

578 2. The entity or its surviving or acquiring entity as
579 described in subparagraph 1. may transfer any unused credit in
580 whole or in units of no less than 25 percent of the remaining
581 credit. The entity acquiring such credit may use it in the same
582 manner and with the same limitations under this section. Such
583 transferred credits may not be transferred again although they
584 may succeed to a surviving or acquiring entity subject to the
585 same conditions and limitations as described in this section.

586 3. In the event the credit provided for under this section
587 is reduced as a result of an examination or audit by the
588 department, such tax deficiency shall be recovered from the
589 first entity or the surviving or acquiring entity to have
590 claimed such credit up to the amount of credit taken. Any
591 subsequent deficiencies shall be assessed against any entity
592 acquiring and claiming such credit, or in the case of multiple
593 succeeding entities in the order of credit succession.



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594 (g) Notwithstanding any other provision of this section,
595 credits for the production and sale of electricity from a new or
596 expanded Florida renewable energy facility may be earned between
597 January 1, 2013 ~~2007~~, and June 30, 2016 ~~2010~~. The combined total
598 amount of tax credits which may be granted for all taxpayers
599 under this section is limited to \$5 million in state fiscal year
600 2012-2013 and \$10 million per state fiscal year in state fiscal
601 years 2013-2014 through 2016-2017. If the annual tax credit
602 authorization amount is not exhausted by allocations of credits
603 within that particular state fiscal year, any authorized but
604 unallocated credit amounts may be used to grant credits that
605 were earned pursuant to s. 220.192 but unallocated due to a lack
606 of authorized funds.

607 (h) A taxpayer claiming a credit under this section shall
608 be required to add back to net income that portion of its
609 business deductions claimed on its federal return paid or
610 incurred for the taxable year which is equal to the amount of
611 the credit allowable for the taxable year under this section.

612 (i) A taxpayer claiming credit under this section may not
613 claim a credit under s. 220.192. A taxpayer claiming credit
614 under s. 220.192 may not claim a credit under this section.

615 (j) When an entity treated as a partnership or a
616 disregarded entity under this chapter produces and sells
617 electricity from a new or expanded renewable energy facility,
618 the credit earned by such entity shall pass through in the same
619 manner as items of income and expense pass through for federal
620 income tax purposes. When an entity applies for the credit and
621 the entity has received the credit by a pass-through, the
622 application must identify the taxpayer that passed the credit



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623 through, all taxpayers that received the credit, and the
624 percentage of the credit that passes through to each recipient
625 and must provide other information that the Department of
626 Agriculture and Consumer Services ~~department~~ requires.

627 (k) A taxpayer's use of the credit granted pursuant to this
628 section does not reduce the amount of any credit available to
629 such taxpayer under s. 220.186.

630 (4) The Department of Agriculture and Consumer Services
631 shall make a determination on the eligibility of the applicant
632 for the credits sought and certify the determination to the
633 applicant and the Department of Revenue. The corporation must
634 attach the Department of Agriculture and Consumer Services'
635 certification to the tax return on which the credit is claimed.
636 The Department of Agriculture and Consumer Services is
637 responsible for ensuring that the corporate income tax credits
638 granted in each fiscal year do not exceed the limits provided
639 for in this section.

640 (5) (a) In addition to its existing audit and investigation
641 authority, the Department of Revenue may perform any additional
642 financial and technical audits and investigations, including
643 examining the accounts, books, and records of the tax credit
644 applicant, which are necessary to verify the information
645 included in the tax credit return and to ensure compliance with
646 this section. The Department of Agriculture and Consumer
647 Services shall provide technical assistance when requested by
648 the Department of Revenue on any technical audits or
649 examinations performed pursuant to this section.

650 (b) It is grounds for forfeiture of previously claimed and
651 received tax credits if the Department of Revenue determines, as



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652 a result of an audit or examination or from information received
653 from the Department of Agriculture and Consumer Services, that a
654 taxpayer received tax credits pursuant to this section to which
655 the taxpayer was not entitled. The taxpayer is responsible for
656 returning forfeited tax credits to the Department of Revenue,
657 and such funds shall be paid into the General Revenue Fund of
658 the state.

659 (c) The Department of Agriculture and Consumer Services may
660 revoke or modify any written decision granting eligibility for
661 tax credits under this section if it is discovered that the tax
662 credit applicant submitted any false statement, representation,
663 or certification in any application, record, report, plan, or
664 other document filed in an attempt to receive tax credits under
665 this section. The Department of Agriculture and Consumer
666 Services shall immediately notify the Department of Revenue of
667 any revoked or modified orders affecting previously granted tax
668 credits. Additionally, the taxpayer must notify the Department
669 of Revenue of any change in its tax credit claimed.

670 (d) The taxpayer shall file with the Department of Revenue
671 an amended return or such other report as the Department of
672 Revenue prescribes by rule and shall pay any required tax and
673 interest within 60 days after the taxpayer receives notification
674 from the Department of Agriculture and Consumer Services that
675 previously approved tax credits have been revoked or modified.
676 If the revocation or modification order is contested, the
677 taxpayer shall file an amended return or other report as
678 provided in this paragraph within 60 days after a final order is
679 issued after proceedings.

680 (e) A notice of deficiency may be issued by the Department



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681 of Revenue at any time within 3 years after the taxpayer
682 receives formal notification from the Department of Agriculture
683 and Consumer Services that previously approved tax credits have
684 been revoked or modified. If a taxpayer fails to notify the
685 Department of Revenue of any changes to its tax credit claimed,
686 a notice of deficiency may be issued at any time.

687 (6)-(4) The Department of Revenue and the Department of
688 Agriculture and Consumer Services department may adopt rules to
689 implement and administer this section, including rules
690 prescribing forms, the documentation needed to substantiate a
691 claim for the tax credit, and the specific procedures and
692 guidelines for claiming the credit.

693 (7) The Department of Agriculture and Consumer Services
694 shall determine and publish on its website on a regular basis
695 the amount of available tax credits remaining in each fiscal
696 year.

697 (8)-(5) This section shall take effect upon becoming law and
698 shall apply to tax years beginning on and after January 1, 2013
699 2007.

700 Section 8. Subsection (3) of section 255.257, Florida
701 Statutes, is amended to read:

702 255.257 Energy management; buildings occupied by state
703 agencies.—

704 (3) CONTENTS OF THE STATE ENERGY MANAGEMENT PLAN.—The
705 Department of Management Services, in coordination with the
706 Department of Agriculture and Consumer Services, shall further
707 develop the a state energy management plan consisting of, but
708 not limited to, the following elements:

709 (a) Data-gathering requirements;



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- 710 (b) Building energy audit procedures;
- 711 (c) Uniform data analysis and reporting procedures;
- 712 (d) Employee energy education program measures;
- 713 (e) Energy consumption reduction techniques;
- 714 (f) Training program for state agency energy management
- 715 coordinators; and
- 716 (g) Guidelines for building managers.

717
718 The plan shall include a description of actions that state
719 agencies shall take to reduce consumption of electricity and
720 nonrenewable energy sources used for space heating and cooling,
721 ventilation, lighting, water heating, and transportation.

722 Section 9. Paragraph (q) of subsection (2) of section
723 288.106, Florida Statutes, is amended to read:

724 288.106 Tax refund program for qualified target industry
725 businesses.—

726 (2) DEFINITIONS.—As used in this section:

727 (q) "Target industry business" means a corporate
728 headquarters business or any business that is engaged in one of
729 the target industries identified pursuant to the following
730 criteria developed by the department in consultation with
731 Enterprise Florida, Inc.:

732 1. Future growth.—Industry forecasts should indicate strong
733 expectation for future growth in both employment and output,
734 according to the most recent available data. Special
735 consideration should be given to businesses that export goods
736 to, or provide services in, international markets and businesses
737 that replace domestic and international imports of goods or
738 services.



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739 2. Stability.—The industry should not be subject to
740 periodic layoffs, whether due to seasonality or sensitivity to
741 volatile economic variables such as weather. The industry should
742 also be relatively resistant to recession, so that the demand
743 for products of this industry is not typically subject to
744 decline during an economic downturn.

745 3. High wage.—The industry should pay relatively high wages
746 compared to statewide or area averages.

747 4. Market and resource independent.—The location of
748 industry businesses should not be dependent on Florida markets
749 or resources as indicated by industry analysis, except for
750 businesses in the renewable energy industry.

751 5. Industrial base diversification and strengthening.—The
752 industry should contribute toward expanding or diversifying the
753 state's or area's economic base, as indicated by analysis of
754 employment and output shares compared to national and regional
755 trends. Special consideration should be given to industries that
756 strengthen regional economies by adding value to basic products
757 or building regional industrial clusters as indicated by
758 industry analysis. Special consideration should also be given to
759 the development of strong industrial clusters that include
760 defense and homeland security businesses.

761 6. Positive economic impact.—The industry is expected to
762 have strong positive economic impacts on or benefits to the
763 state or regional economies. Special consideration should be
764 given to industries that facilitate the development of the state
765 as a hub for domestic and global trade and logistics.

766
767 The term does not include any business engaged in retail



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768 industry activities; any electrical utility company as defined
769 in s. 366.02(2); any phosphate or other solid minerals
770 severance, mining, or processing operation; any oil or gas
771 exploration or production operation; or any business subject to
772 regulation by the Division of Hotels and Restaurants of the
773 Department of Business and Professional Regulation. Any business
774 within NAICS code 5611 or 5614, office administrative services
775 and business support services, respectively, may be considered a
776 target industry business only after the local governing body and
777 Enterprise Florida, Inc., make a determination that the
778 community where the business may locate has conditions affecting
779 the fiscal and economic viability of the local community or
780 area, including but not limited to, factors such as low per
781 capita income, high unemployment, high underemployment, and a
782 lack of year-round stable employment opportunities, and such
783 conditions may be improved by the location of such a business to
784 the community. By January 1 of every 3rd year, beginning January
785 1, 2011, the department, in consultation with Enterprise
786 Florida, Inc., economic development organizations, the State
787 University System, local governments, employee and employer
788 organizations, market analysts, and economists, shall review
789 and, as appropriate, revise the list of such target industries
790 and submit the list to the Governor, the President of the
791 Senate, and the Speaker of the House of Representatives.

792 Section 10. Section 366.92, Florida Statutes, is amended to
793 read:

794 366.92 Florida renewable energy policy.—

795 (1) It is the intent of the Legislature to promote the
796 development of renewable energy; protect the economic viability



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797 of Florida's existing renewable energy facilities; diversify the
798 types of fuel used to generate electricity in Florida; lessen
799 Florida's dependence on natural gas and fuel oil for the
800 production of electricity; minimize the volatility of fuel
801 costs; encourage investment within the state; improve
802 environmental conditions; and, at the same time, minimize the
803 costs of power supply to electric utilities and their customers.

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

805 ~~(a) "Florida renewable energy resources" means renewable~~
806 ~~energy, as defined in s. 377.803, that is produced in Florida.~~

807 ~~(a)(b) "Provider" means a "utility" as defined in s.~~
808 ~~366.8255(1) (a).~~

809 ~~(b)(e) "Renewable energy" means renewable energy as defined~~
810 ~~in s. 366.91(2) (d).~~

811 ~~(d) "Renewable energy credit" or "REC" means a product that~~
812 ~~represents the unbundled, separable, renewable attribute of~~
813 ~~renewable energy produced in Florida and is equivalent to 1~~
814 ~~megawatt-hour of electricity generated by a source of renewable~~
815 ~~energy located in Florida.~~

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

820 ~~(3) The commission shall adopt rules for a renewable~~
821 ~~portfolio standard requiring each provider to supply renewable~~
822 ~~energy to its customers directly, by procuring, or through~~
823 ~~renewable energy credits. In developing the RPS rule, the~~
824 ~~commission shall consult the Department of Environmental~~
825 ~~Protection and the Department of Agriculture and Consumer~~



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826 ~~Services. The rule shall not be implemented until ratified by~~
827 ~~the Legislature. The commission shall present a draft rule for~~
828 ~~legislative consideration by February 1, 2009.~~

829 ~~(a) In developing the rule, the commission shall evaluate~~
830 ~~the current and forecasted levelized cost in cents per kilowatt~~
831 ~~hour through 2020 and current and forecasted installed capacity~~
832 ~~in kilowatts for each renewable energy generation method through~~
833 ~~2020.~~

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

835 ~~1. Shall include methods of managing the cost of compliance~~
836 ~~with the renewable portfolio standard, whether through direct~~
837 ~~supply or procurement of renewable power or through the purchase~~
838 ~~of renewable energy credits. The commission shall have~~
839 ~~rulemaking authority for providing annual cost recovery and~~
840 ~~incentive-based adjustments to authorized rates of return on~~
841 ~~common equity to providers to incentivize renewable energy.~~
842 ~~Notwithstanding s. 366.91(3) and (4), upon the ratification of~~
843 ~~the rules developed pursuant to this subsection, the commission~~
844 ~~may approve projects and power sales agreements with renewable~~
845 ~~power producers and the sale of renewable energy credits needed~~
846 ~~to comply with the renewable portfolio standard. In the event of~~
847 ~~any conflict, this subparagraph shall supersede s. 366.91(3) and~~
848 ~~(4). However, nothing in this section shall alter the obligation~~
849 ~~of each public utility to continuously offer a purchase contract~~
850 ~~to producers of renewable energy.~~

851 ~~2. Shall provide for appropriate compliance measures and~~
852 ~~the conditions under which noncompliance shall be excused due to~~
853 ~~a determination by the commission that the supply of renewable~~
854 ~~energy or renewable energy credits was not adequate to satisfy~~



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855 ~~the demand for such energy or that the cost of securing~~
856 ~~renewable energy or renewable energy credits was cost~~
857 ~~prohibitive.~~

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

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

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

867 ~~6. Shall ensure that energy credited toward compliance with~~
868 ~~the requirements of this section is not credited toward any~~
869 ~~other purpose.~~

870 ~~7. Shall include procedures to track and account for~~
871 ~~renewable energy credits, including ownership of renewable~~
872 ~~energy credits that are derived from a customer-owned renewable~~
873 ~~energy facility as a result of any action by a customer of an~~
874 ~~electric power supplier that is independent of a program~~
875 ~~sponsored by the electric power supplier.~~

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

879 ~~(c) Beginning on April 1 of the year following final~~
880 ~~adoption of the commission's renewable portfolio standard rule,~~
881 ~~each provider shall submit a report to the commission describing~~
882 ~~the steps that have been taken in the previous year and the~~
883 ~~steps that will be taken in the future to add renewable energy~~



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884 ~~to the provider's energy supply portfolio. The report shall~~
885 ~~state whether the provider was in compliance with the renewable~~
886 ~~portfolio standard during the previous year and how it will~~
887 ~~comply with the renewable portfolio standard in the upcoming~~
888 ~~year.~~

889 ~~(4) In order to demonstrate the feasibility and viability~~
890 ~~of clean energy systems, the commission shall provide for full~~
891 ~~cost recovery under the environmental cost-recovery clause of~~
892 ~~all reasonable and prudent costs incurred by a provider for~~
893 ~~renewable energy projects that are zero greenhouse gas emitting~~
894 ~~at the point of generation, up to a total of 110 megawatts~~
895 ~~statewide, and for which the provider has secured necessary~~
896 ~~land, zoning permits, and transmission rights within the state.~~
897 ~~Such costs shall be deemed reasonable and prudent for purposes~~
898 ~~of cost recovery so long as the provider has used reasonable and~~
899 ~~customary industry practices in the design, procurement, and~~
900 ~~construction of the project in a cost-effective manner~~
901 ~~appropriate to the location of the facility. The provider shall~~
902 ~~report to the commission as part of the cost recovery~~
903 ~~proceedings the construction costs, in-service costs, operating~~
904 ~~and maintenance costs, hourly energy production of the renewable~~
905 ~~energy project, and any other information deemed relevant by the~~
906 ~~commission. Any provider constructing a clean energy facility~~
907 ~~pursuant to this section shall file for cost recovery no later~~
908 ~~than July 1, 2009.~~

909 ~~(3)~~⁽⁵⁾ Each municipal electric utility and rural electric
910 cooperative shall develop standards for the promotion,
911 encouragement, and expansion of the use of renewable energy
912 resources and energy conservation and efficiency measures. On or



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913 before April 1, 2009, and annually thereafter, each municipal
914 electric utility and electric cooperative shall submit to the
915 commission a report that identifies such standards.

916 (4)~~(6)~~ Nothing in this section shall be construed to impede
917 or impair terms and conditions of existing contracts.

918 (5)~~(7)~~ The commission may adopt rules to administer and
919 implement the provisions of this section.

920 Section 11. Section 366.94, Florida Statutes, is created to
921 read:

922 366.94 Electric vehicle charging stations.-

923 (1) The provision of electric vehicle charging to the
924 public by a nonutility is not the retail sale of electricity for
925 the purposes of this chapter. The rates, terms, and conditions
926 of electric vehicle charging services by a nonutility are not
927 subject to regulation under this chapter. This section does not
928 affect the ability of individuals, businesses, or governmental
929 entities to acquire, install, or use an electric vehicle charger
930 for their own vehicles.

931 (2) The Department of Agriculture and Consumer Services
932 shall adopt rules to provide definitions, methods of sale,
933 labeling requirements, and price-posting requirements for
934 electric vehicle charging stations to allow for consistency for
935 consumers and the industry.

936 (3) (a) It is unlawful for a person to stop, stand, or park
937 a vehicle that is not capable of using an electrical recharging
938 station within any parking space specifically designated for
939 charging an electric vehicle.

940 (b) If a law enforcement officer finds a motor vehicle in
941 violation of this subsection, the officer or specialist shall



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942 charge the operator or other person in charge of the vehicle in
943 violation with a noncriminal traffic infraction, punishable as
944 provided in s. 316.008(4) or s. 318.18.

945 (4) The Public Service Commission is directed to conduct a
946 study of the potential effects of public charging stations and
947 privately owned electric vehicle charging on both energy
948 consumption and the impact on the electric grid in the state.
949 The Public Service Commission shall also investigate the
950 feasibility of using off-grid solar photovoltaic power as a
951 source of electricity for the electric vehicle charging
952 stations. The commission shall submit the results of the study
953 to the President of the Senate, the Speaker of the House of
954 Representatives, and the Executive Office of the Governor by
955 December 31, 2012.

956 Section 12. Paragraph (n) is added to subsection (2) of
957 section 377.703, Florida Statutes, to read:

958 377.703 Additional functions of the Department of
959 Agriculture and Consumer Services.—

960 (2) DUTIES.—The department shall perform the following
961 functions, unless as otherwise provided, consistent with the
962 development of a state energy policy:

963 (n) On an annual basis, the department shall prepare an
964 assessment of the utilization of the tax exemption authorized in
965 s. 212.08(7) (hhh), the renewable energy technologies investment
966 tax credit authorized in s. 220.192, and the renewable energy
967 production credit authorized in s. 220.193, which the department
968 shall submit to the President of the Senate, the Speaker of the
969 House of Representatives, and the Executive Office of the
970 Governor by February 1 of each year. The assessment shall



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971 include, at a minimum, the following information:
972 1. For the tax exemption authorized in s. 212.08(7) (hhh):
973 a. The name of each taxpayer receiving an exemption under
974 this section;
975 b. The amount of the exemption received by each taxpayer;
976 and
977 c. The type and description of each eligible item for which
978 each taxpayer is applying.
979 2. For the renewable energy technologies investment tax
980 credit authorized in s. 220.192:
981 a. The name of each taxpayer receiving an allocation under
982 this section;
983 b. The amount of the credits allocated for that fiscal year
984 for each taxpayer; and
985 c. The type of technology and a description of each
986 investment for which each taxpayer receives an allocation.
987 3. For the renewable energy production credit authorized in
988 s. 220.193:
989 a. The name of each taxpayer receiving an allocation under
990 this section;
991 b. The amount of credits allocated for that fiscal year for
992 each taxpayer;
993 c. The type and amount of renewable energy produced and
994 sold, whether the facility producing that energy is a new or
995 expanded facility, and the approximate date on which production
996 began; and
997 d. The aggregate amount of credits allocated for all
998 taxpayers claiming credits under this section for the fiscal
999 year.



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1000 Section 13. Subsection (1) of section 526.203, Florida
1001 Statutes, is amended, and subsection (5) is added to that
1002 section, to read:

1003 526.203 Renewable fuel standard.—

1004 (1) DEFINITIONS.—As used in this act, the term:

1005 (a) "Alternative fuel" means a fuel produced from biomass,
1006 as defined in s. 366.91, which is used to replace or reduce the
1007 quantity of fossil fuel present in a petroleum fuel that meets
1008 the specifications as adopted by the department.

1009 (b) ~~(a)~~ "Blender," "importer," "terminal supplier," and
1010 "wholesaler" are defined as provided in s. 206.01.

1011 (c) ~~(b)~~ "Blended gasoline" means a mixture of 90 to 91
1012 percent gasoline and 9 to 10 percent fuel ethanol or other
1013 alternative fuel, by volume, which ~~that~~ meets the specifications
1014 as adopted by the department. The fuel ethanol or other
1015 alternative fuel portion may be derived from any agricultural
1016 source.

1017 (d) ~~(c)~~ "Fuel ethanol" means an anhydrous denatured alcohol
1018 produced by the conversion of carbohydrates which ~~that~~ meets the
1019 specifications as adopted by the department.

1020 (e) ~~(d)~~ "Unblended gasoline" means gasoline that has not
1021 been blended with fuel ethanol or other alternative fuel and
1022 that meets the specifications as adopted by the department.

1023 (5) This section does not prohibit a retail dealer, as
1024 defined in s. 206.01, from selling or offering to sell unblended
1025 gasoline. The Department of Agriculture and Consumer Services
1026 shall compile a list of retail fuel stations that sell or offer
1027 to sell unblended gasoline. This information shall be compiled
1028 by the department as part of its routine retail fuel station



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1029 inspections, authorized under s. 525.07, and from information
1030 provided voluntarily by retail dealers. The Department of
1031 Agriculture and Consumer Services shall provide this information
1032 on its website to inform consumers of the options available for
1033 unblended gasoline.

1034 Section 14. Subsection (4) of section 581.083, Florida
1035 Statutes, is amended to read:

1036 581.083 Introduction or release of plant pests, noxious
1037 weeds, or organisms affecting plant life; cultivation of
1038 nonnative plants; special permit and security required.—

1039 (4) A person may not cultivate a nonnative plant, algae, or
1040 blue-green algae, including a genetically engineered plant,
1041 algae, or blue-green algae ~~or a plant that has been introduced,~~
1042 ~~for purposes of fuel production or purposes other than~~
1043 ~~agriculture~~ in plantings greater in size than 2 contiguous
1044 acres, except under a special permit issued by the department
1045 through the division, which is the sole agency responsible for
1046 issuing such special permits. A permit is not required to
1047 cultivate any plant or group of plants that, based on experience
1048 or research data, does not pose a threat of becoming an invasive
1049 species and is commonly grown in this state for the purpose of
1050 human food consumption, commercial feed, feedstuff, forage for
1051 livestock, nursery stock, or silviculture. The department is
1052 authorized to adopt additional exemptions to the permitting
1053 requirements of this section if the department determines, after
1054 consulting with the Institute of Food and Agricultural Sciences
1055 at the University of Florida, that based on experience or
1056 research data, the nonnative plant, algae, or blue-green algae
1057 does not pose a threat of becoming an invasive species or a pest



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1058 of plants or native fauna under conditions in this state and
1059 subsequently exempts the plant or group of plants by rule ~~Such a~~
1060 ~~permit shall not be required if the department determines, in~~
1061 ~~conjunction with the Institute of Food and Agricultural Sciences~~
1062 ~~at the University of Florida, that the plant is not invasive and~~
1063 ~~subsequently exempts the plant by rule.~~

1064 (a)1. Each application for a special permit must be
1065 accompanied by a fee as described in subsection (2) and proof
1066 that the applicant has obtained, on a form approved by the
1067 department, ~~a bond in the form approved by the department and~~
1068 ~~issued by a surety company admitted to do business in this state~~
1069 ~~or a certificate of deposit, or other type of security adopted~~
1070 ~~by rule of the department, which provides a financial assurance~~
1071 ~~of cost recovery for the removal of a planting.~~ The application
1072 must include, on a form provided by the department, the name of
1073 the applicant and the applicant's address or the address of the
1074 applicant's principal place of business; a statement completely
1075 identifying the nonnative plant to be cultivated; and a
1076 statement of the estimated cost of removing and destroying the
1077 plant that is the subject of the special permit and the basis
1078 for calculating or determining that estimate. If the applicant
1079 is a corporation, partnership, or other business entity, the
1080 applicant must also provide in the application the name and
1081 address of each officer, partner, or managing agent. The
1082 applicant shall notify the department within 10 business days of
1083 any change of address or change in the principal place of
1084 business. The department shall mail all notices to the
1085 applicant's last known address.

1086 2. As used in this subsection, the term "certificate of



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1087 deposit" means a certificate of deposit at any recognized
1088 financial institution doing business in the United States. The
1089 department may not accept a certificate of deposit in connection
1090 with the issuance of a special permit unless the issuing
1091 institution is properly insured by the Federal Deposit Insurance
1092 Corporation or the Federal Savings and Loan Insurance
1093 Corporation.

1094 (b) Upon obtaining a permit, the permitholder may annually
1095 cultivate and maintain the nonnative plants as authorized by the
1096 special permit. If the permitholder ceases to maintain or
1097 cultivate the plants authorized by the special permit, if the
1098 permit expires, or if the permitholder ceases to abide by the
1099 conditions of the special permit, the permitholder shall
1100 immediately remove and destroy the plants that are subject to
1101 the permit, if any remain. The permitholder shall notify the
1102 department of the removal and destruction of the plants within
1103 10 days after such event.

1104 (c) If the department:

1105 1. Determines that the permitholder is no longer
1106 maintaining or cultivating the plants subject to the special
1107 permit and has not removed and destroyed the plants authorized
1108 by the special permit;

1109 2. Determines that the continued maintenance or cultivation
1110 of the plants presents an imminent danger to public health,
1111 safety, or welfare;

1112 3. Determines that the permitholder has exceeded the
1113 conditions of the authorized special permit; or

1114 4. Receives a notice of cancellation of the surety bond,
1115



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1116 the department may issue an immediate final order, which shall
1117 be immediately appealable or enjoinable as provided by chapter
1118 120, directing the permitholder to immediately remove and
1119 destroy the plants authorized to be cultivated under the special
1120 permit. A copy of the immediate final order must ~~shall~~ be mailed
1121 to the permitholder and to the surety company or financial
1122 institution that has provided security for the special permit,
1123 if applicable.

1124 (d) If, upon issuance by the department of an immediate
1125 final order to the permitholder, the permitholder fails to
1126 remove and destroy the plants subject to the special permit
1127 within 60 days after issuance of the order, or such shorter
1128 period as is designated in the order as public health, safety,
1129 or welfare requires, the department may enter the cultivated
1130 acreage and remove and destroy the plants that are the subject
1131 of the special permit. If the permitholder makes a written
1132 request to the department for an extension of time to remove and
1133 destroy the plants that demonstrates specific facts showing why
1134 the plants could not reasonably be removed and destroyed in the
1135 applicable timeframe, the department may extend the time for
1136 removing and destroying plants subject to a special permit. The
1137 reasonable costs and expenses incurred by the department for
1138 removing and destroying plants subject to a special permit shall
1139 be reimbursed to the department by the permitholder within 21
1140 days after the date the permitholder and the surety company or
1141 financial institution are served a copy of the department's
1142 invoice for the costs and expenses incurred by the department to
1143 remove and destroy the cultivated plants, along with a notice of
1144 administrative rights, unless the permitholder or the surety



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1145 company or financial institution object to the reasonableness of
1146 the invoice. In the event of an objection, the permitholder or
1147 surety company or financial institution is entitled to an
1148 administrative proceeding as provided by chapter 120. Upon entry
1149 of a final order determining the reasonableness of the incurred
1150 costs and expenses, the permitholder has ~~shall have~~ 15 days
1151 after following service of the final order to reimburse the
1152 department. Failure of the permitholder to timely reimburse the
1153 department for the incurred costs and expenses entitles the
1154 department to reimbursement from the applicable bond or
1155 certificate of deposit.

1156 (e) Each permitholder shall maintain for each separate
1157 growing location a bond or a certificate of deposit in an amount
1158 determined by the department, but not more ~~less~~ than 150 percent
1159 of the estimated cost of removing and destroying the cultivated
1160 plants. The bond or certificate of deposit may not exceed \$5,000
1161 per acre, unless a higher amount is determined by the department
1162 to be necessary to protect the public health, safety, and
1163 welfare or unless an exemption is granted by the department
1164 based on conditions specified in the application which would
1165 preclude the department from incurring the cost of removing and
1166 destroying the cultivated plants and would prevent injury to the
1167 public health, safety, and welfare. The aggregate liability of
1168 the surety company or financial institution to all persons for
1169 all breaches of the conditions of the bond or certificate of
1170 deposit may not exceed the amount of the bond or certificate of
1171 deposit. The original bond or certificate of deposit required by
1172 this subsection shall be filed with the department. A surety
1173 company shall give the department 30 days' written notice of



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1174 cancellation, by certified mail, in order to cancel a bond.
1175 Cancellation of a bond does not relieve a surety company of
1176 liability for paying to the department all costs and expenses
1177 incurred or to be incurred for removing and destroying the
1178 permitted plants covered by an immediate final order authorized
1179 under paragraph (c). A bond or certificate of deposit must be
1180 provided or assigned in the exact name in which an applicant
1181 applies for a special permit. The penal sum of the bond or
1182 certificate of deposit to be furnished to the department by a
1183 permitholder in the amount specified in this paragraph must
1184 guarantee payment of the costs and expenses incurred or to be
1185 incurred by the department for removing and destroying the
1186 plants cultivated under the issued special permit. The bond or
1187 certificate of deposit assignment or agreement must be upon a
1188 form prescribed or approved by the department and must be
1189 conditioned to secure the faithful accounting for and payment of
1190 all costs and expenses incurred by the department for removing
1191 and destroying all plants cultivated under the special permit.
1192 The bond or certificate of deposit assignment or agreement must
1193 include terms binding the instrument to the Commissioner of
1194 Agriculture. Such certificate of deposit shall be presented with
1195 an assignment of the permitholder's rights in the certificate in
1196 favor of the Commissioner of Agriculture on a form prescribed by
1197 the department and with a letter from the issuing institution
1198 acknowledging that the assignment has been properly recorded on
1199 the books of the issuing institution and will be honored by the
1200 issuing institution. Such assignment is irrevocable while a
1201 special permit is in effect and for an additional period of 6
1202 months after termination of the special permit if operations to



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1203 remove and destroy the permitted plants are not continuing and
1204 if the department's invoice remains unpaid by the permitholder
1205 under the issued immediate final order. If operations to remove
1206 and destroy the plants are pending, the assignment remains in
1207 effect until all plants are removed and destroyed and the
1208 department's invoice has been paid. The bond or certificate of
1209 deposit may be released by the assignee of the surety company or
1210 financial institution to the permitholder, or to the
1211 permitholder's successors, assignee, or heirs, if operations to
1212 remove and destroy the permitted plants are not pending and no
1213 invoice remains unpaid at the conclusion of 6 months after the
1214 last effective date of the special permit. The department may
1215 not accept a certificate of deposit that contains any provision
1216 that would give to any person any prior rights or claim on the
1217 proceeds or principal of such certificate of deposit. The
1218 department shall determine by rule whether an annual bond or
1219 certificate of deposit will be required. The amount of such bond
1220 or certificate of deposit shall be increased, upon order of the
1221 department, at any time if the department finds such increase to
1222 be warranted by the cultivating operations of the permitholder.
1223 In the same manner, the amount of such bond or certificate of
1224 deposit may be adjusted downward or removed ~~decreased~~ when a
1225 decrease in the cultivating operations of the permitholder
1226 occurs or when research or practical field knowledge and
1227 observations indicate a low risk of invasiveness by the
1228 nonnative species warrants such decrease. Factors that may be
1229 considered for change include multiple years or cycles of
1230 successful large-scale contained cultivation; no observation of
1231 plant, algae, or blue-green algae escape from managed areas; or



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1232 science-based evidence that established or approved adjusted
1233 cultivation practices provide a similar level of containment of
1234 the nonnative plant, algae, or blue-green algae. This paragraph
1235 applies to any bond or certificate of deposit, regardless of the
1236 anniversary date of its issuance, expiration, or renewal.

1237 (f) In order to carry out the purposes of this subsection,
1238 the department or its agents may require from any permitholder
1239 verified statements of the cultivated acreage subject to the
1240 special permit and may review the permitholder's business or
1241 cultivation records at her or his place of business during
1242 normal business hours in order to determine the acreage
1243 cultivated. The failure of a permitholder to furnish such
1244 statement, to make such records available, or to make and
1245 deliver a new or additional bond or certificate of deposit is
1246 cause for suspension of the special permit. If the department
1247 finds such failure to be willful, the special permit may be
1248 revoked.

1249 Section 15. The Department of Agriculture and Consumer
1250 Services shall conduct a comprehensive statewide forest
1251 inventory analysis and study, using a geographic information
1252 system, to identify where available biomass is located,
1253 determine the available biomass resources, and ensure forest
1254 sustainability within the state. The department shall submit the
1255 results of the study to the President of the Senate, the Speaker
1256 of the House of Representatives, and the Executive Office of the
1257 Governor by July 1, 2013.

1258 Section 16. The Office of Energy within the Department of
1259 Agriculture and Consumer Services, in consultation with the
1260 Public Service Commission, the Florida Building Commission, and



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1261 the Florida Energy Systems Consortium, shall develop a
1262 clearinghouse of information regarding cost savings associated
1263 with various energy efficiency and conservation measures. The
1264 department shall post the information on its website by July 1,
1265 2013.

1266 Section 17. For the 2012-2013 fiscal year, the nonrecurring
1267 sum of \$250,000 is appropriated from the Florida Public Service
1268 Regulatory Trust Fund for the purpose of the Public Service
1269 Commission, in consultation with the Department of Agriculture
1270 and Consumer Services, contracting for an independent evaluation
1271 of the Florida Energy Efficiency and Conservation Act to
1272 determine if the act remains in the public interest. The
1273 evaluation must consider the costs to ratepayers, the incentives
1274 and disincentives associated with the provisions in the act, and
1275 if the programs create benefits without undue burden on the
1276 customer. The models and methods used to determine conservation
1277 goals must be specifically addressed in the report. The
1278 commission shall submit the report to the President of the
1279 Senate, the Speaker of the House of Representatives, and the
1280 Executive Office of the Governor by January 31, 2013.

1281 Section 18. This act shall take effect July 1, 2012.

1282
1283 ===== T I T L E A M E N D M E N T =====

1284 And the title is amended as follows:

1285 Delete everything before the enacting clause
1286 and insert:

1287 A bill to be entitled
1288 An act relating to energy; amending s. 163.08, F.S.;
1289 revising the definition of the term "local



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1290 government"; amending s. 186.801, F.S.; adding factors
1291 for the Public Service Commission to consider in
1292 reviewing the 10-year site plans submitted to the
1293 commission by electric utilities; amending s. 212.055,
1294 F.S.; providing for a portion of the proceeds of the
1295 local government infrastructure surtax to be used for
1296 financial assistance to residential and commercial
1297 property owners who make energy efficiency
1298 improvements or install renewable energy devices;
1299 defining the term "energy efficiency improvement";
1300 amending s. 212.08, F.S.; providing definitions for
1301 the terms "biodiesel," "ethanol," and "renewable
1302 fuel"; providing for tax exemptions in the form of a
1303 rebate for the sale or use of certain equipment,
1304 machinery, and other materials for renewable energy
1305 technologies; providing eligibility requirements and
1306 tax credit limits; authorizing the Department of
1307 Revenue and the Department of Agriculture and Consumer
1308 Services to adopt rules; directing the Department of
1309 Agriculture and Consumer Services to determine and
1310 publish certain information relating to exemptions;
1311 providing for expiration of the exemption; amending s.
1312 213.053, F.S.; expanding the authority of the
1313 Department of Revenue to disclose certain information;
1314 amending s. 220.192, F.S.; providing definitions;
1315 reestablishing a corporate tax credit for certain
1316 costs related to renewable energy technologies;
1317 providing eligibility requirements and credit limits;
1318 providing for use of authorized but unallocated credit



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1319 amounts; providing rulemaking authority to the
1320 Department of Revenue and the Department of
1321 Agriculture and Consumer Services; directing the
1322 Department of Agriculture and Consumer Services to
1323 determine and publish certain information; providing
1324 for expiration of the tax credit; amending s. 220.193,
1325 F.S.; reestablishing a corporate tax credit for
1326 renewable energy production; providing definitions;
1327 providing a tax credit for the production and sale of
1328 renewable energy; providing requirements relating to
1329 the priority and proration of such tax credits under
1330 certain circumstances; providing for the use and
1331 transfer of the tax credit; limiting the amount of tax
1332 credits that may be granted to an individual taxpayer
1333 per state fiscal year and for all taxpayers per state
1334 fiscal year; increasing the cap for all taxpayers
1335 during a specified period; providing for use of
1336 authorized but unallocated credit amounts; providing
1337 rulemaking authority to the Department of Revenue and
1338 the Department of Agriculture and Consumer Services;
1339 directing the Department of Agriculture and Consumer
1340 Services to provide certain information on its
1341 website; providing for expiration of the tax credit;
1342 amending s. 255.257, F.S.; directing the Department of
1343 Management Services, in coordination with the
1344 Department of Agriculture and Consumer Services, to
1345 further develop the state energy management plan;
1346 amending s. 288.106, F.S.; redefining the term "target
1347 industry business," for purposes of a tax refund



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1348 program, to exclude certain electrical utilities;
1349 amending s. 366.92, F.S.; deleting an obsolete
1350 directive to the Public Service Commission to adopt
1351 rules for a renewable portfolio standard; deleting
1352 related definitions; removing a provision that allowed
1353 full cost recovery for certain renewable energy
1354 projects; creating s. 366.94, F.S.; providing that the
1355 provision of electric vehicle charging to the public
1356 by a nonutility is not the retail sale of electricity;
1357 providing that the rates, terms, and conditions of
1358 electric vehicle charging services by a nonutility are
1359 not subject to regulation under ch. 366, F.S.;

1360 requiring the Department of Agriculture and Consumer
1361 Services to develop rules for sales at electric
1362 vehicle charging stations; prohibiting the obstruction
1363 of a parking space at an electric vehicle charging
1364 station; providing a penalty; requiring that the
1365 Public Service Commission study the effects of
1366 charging stations on energy consumption in the state
1367 and the effects on the grid and report the results to
1368 the President of the Senate, the Speaker of the House
1369 of Representatives, and the Executive Office of the
1370 Governor; amending s. 377.703, F.S.; requiring the
1371 Department of Agriculture and Consumer Services to
1372 annually prepare an assessment of the use of specified
1373 energy-related tax credits; requiring specified
1374 information to be included in such assessment;

1375 amending s. 526.203, F.S.; revising the definitions of
1376 the terms "blended gasoline" and "unblended gasoline";



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1377 defining the term "alternative fuel"; directing the
1378 Department of Agriculture and Consumer Services to
1379 compile a list of retail fuel stations that sell or
1380 offer to sell unblended gasoline and provide that
1381 information on the department's website; amending s.
1382 581.083, F.S.; prohibiting the cultivation of certain
1383 algae in plantings greater in size than 2 contiguous
1384 acres; providing exceptions; providing for exemption
1385 from special permitting requirements by rule; revising
1386 certain bonding requirements; requiring the Department
1387 of Agriculture and Consumer Services to conduct a
1388 statewide forest inventory; requiring the Department
1389 of Agriculture and Consumer Services to work with
1390 other specified entities to develop information on
1391 cost savings for energy efficiency and conservation
1392 measures and post it on the department's website;
1393 providing an appropriation from the Florida Public
1394 Service Regulatory Trust Fund for the purpose of the
1395 Public Service Commission, in consultation with the
1396 Department of Agriculture and Consumer Services, to
1397 contract for an independent evaluation of the Florida
1398 Energy Efficiency and Conservation Act; requiring
1399 reports to the Legislature and the Executive Office of
1400 the Governor; providing an effective date.