

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	—	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

1 Committee/Subcommittee hearing bill: Finance & Tax Committee
2 Representative Diaz offered the following:

3
4 **Amendment**

5 Remove lines 565-639 and insert:

6 2006. "New facility" shall also include a Florida renewable
7 energy facility that has had an expansion operationally placed
8 in service after May 1, 2006, and whose cost exceeded 50 percent
9 of the assessed value of the facility immediately before the
10 expansion.

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

14 (g) "Taxpayer" includes a general partnership, limited
15 partnership, limited liability company, trust, or other
16 artificial entity in which a corporation, as defined in s.
17 220.03(1)(e), owns an interest and is taxed as a partnership or
18 is disregarded as a separate entity from the corporation under
19 this chapter.

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20 (3) An annual credit against the tax imposed by this
21 section shall be allowed to a taxpayer, based on the taxpayer's
22 production and sale of electricity from a new or expanded
23 Florida renewable energy facility. For a new facility, the
24 credit shall be based on the taxpayer's sale of the facility's
25 entire electrical production. For an expanded facility, the
26 credit shall be based on the increases in the facility's
27 electrical production that are achieved after May 1, 2012 ~~2006~~.

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

31 (b) The credit may be claimed for electricity produced and
32 sold on or after January 1, 2013 ~~2007~~. Beginning in 2014 ~~2008~~
33 and continuing until 2017 ~~2011~~, each taxpayer claiming a credit
34 under this section must first apply to the department by
35 February 1 of each year for an allocation of available credit.
36 The department, in consultation with the commission, shall
37 develop an application form. The application form shall, at a
38 minimum, require a sworn affidavit from each taxpayer certifying
39 the increase in production and sales that form the basis of the
40 application and certifying that all information contained in the
41 application is true and correct.

42 (c) If the amount of credits applied for each year exceeds
43 \$5 million, the department shall award to each applicant a
44 prorated amount based on each applicant's increased production
45 and sales and the increased production and sales of all
46 applicants. However, priority in the proration shall be given to
47 those applicants who place a new facility in operation after May

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48 1, 2012 claiming a credit of \$100,000 or less, then all other
49 applicants claiming a credit of \$50,000 or less and, subject to
50 availability of funds, each applicant shall receive the entire
51 amount claimed with all remaining claims for the tax year being
52 subject to proration, if necessary.

53 (d) If the credit granted pursuant to this section is not
54 fully used in one year because of insufficient tax liability on
55 the part of the taxpayer, the unused amount may be carried
56 forward for a period not to exceed 5 years. The carryover credit
57 may be used in a subsequent year when the tax imposed by this
58 chapter for such year exceeds the credit for such year, after
59 applying the other credits and unused credit carryovers in the
60 order provided in s. 220.02(8).

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

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

69 2. The entity or its surviving or acquiring entity as
70 described in subparagraph 1. may transfer any unused credit in
71 whole or in units of no less than 25 percent of the remaining
72 credit. The entity acquiring such credit may use it in the same
73 manner and with the same limitations under this section. Such
74 transferred credits may not be transferred again although they

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75 may succeed to a surviving or acquiring entity subject to the
76 same conditions and limitations as described in this section.

77 3. In the event the credit provided for under this section
78 is reduced as a result of an examination or audit by the
79 department, such tax deficiency shall be recovered from the
80 first entity or the surviving or acquiring entity to have
81 claimed such credit up to the amount of credit taken. Any
82 subsequent deficiencies shall be assessed against any entity
83 acquiring and claiming such credit, or in the case of multiple
84 succeeding entities in the order of credit succession.

85 (g) Notwithstanding any other provision of this section,
86 credits for the production and sale of electricity from a new or
87 expanded non-utility generator Florida renewable energy facility
88 may be earned between January 1, 2013 ~~2007~~, and June 30, 2016
89 ~~2010~~. The combined total