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1                   A bill to be entitled  
2           An act relating to energy; amending s. 186.801, F.S.;  
3           requiring utilities' 10-year site plans to address  
4           existing and proposed renewable energy production and  
5           purchases; amending s. 212.055, F.S.; providing for a  
6           portion of the proceeds of the local government  
7           infrastructure surtax to be used to provide loans,  
8           grants, and rebates to residential property owners who  
9           make energy efficiency improvements to their  
10          residential property, subject to referendum; defining  
11          the term "energy efficiency improvement"; amending s.  
12          212.08, F.S.; providing definitions for the terms  
13          "biodiesel," "ethanol," and "renewable fuel";  
14          providing for tax exemptions in the form of a rebate  
15          for the sale or use of certain equipment, machinery,  
16          and other materials for renewable energy technologies;  
17          providing eligibility requirements and tax credit  
18          limits; authorizing the Department of Revenue and the  
19          Department of Agriculture and Consumer Services to  
20          adopt rules; directing the Department of Agriculture  
21          and Consumer Services to determine and publish certain  
22          information relating to exemptions; providing for  
23          expiration of the exemption; amending s. 220.192,  
24          F.S.; providing definitions; reestablishing a  
25          corporate tax credit for certain costs related to  
26          renewable energy technologies; providing eligibility  
27          requirements and credit limits; providing rulemaking  
28          authority to the Department of Revenue and the

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29 Department of Agriculture and Consumer Services;  
30 directing the Department of Agriculture and Consumer  
31 Services to determine and publish certain information;  
32 providing for expiration of the tax credit; amending  
33 s. 220.193, F.S.; reestablishing a corporate tax  
34 credit for renewable energy production; providing  
35 definitions; providing a tax credit for the production  
36 and sale of renewable energy; providing for the use  
37 and transfer of the tax credit; limiting the amount of  
38 tax credits that may be granted to a taxpayer during a  
39 specified period; providing rulemaking authority to  
40 the Department of Revenue; providing for expiration of  
41 the tax credit; amending s. 255.257, F.S.; directing  
42 the Department of Management Services in coordination  
43 with the Department of Agriculture and Consumer  
44 Services to further develop the state energy  
45 management plan; amending s. 288.106, F.S.; clarifying  
46 the definition of "target industry business" for  
47 purposes of the tax refund program for qualified  
48 target industry businesses; amending s. 20.60, F.S.;  
49 requiring the Department of Economic Opportunity to  
50 analyze and evaluate economic benefits for certain  
51 renewable energy projects; amending s. 366.92, F.S.;  
52 providing and revising definitions; authorizing a  
53 utility to petition the Public Service Commission to  
54 determine that a proposed renewable energy project is  
55 in the public interest; providing standards and  
56 criteria for review; providing for cost recovery for

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57 | reasonable and prudent costs incurred by a utility for  
58 | an approved renewable energy project; requiring the  
59 | Public Service Commission to adopt rules to establish  
60 | a public interest determination process for renewable  
61 | energy projects; establishing procedural guidelines  
62 | for public interest determination; creating s. 366.94,  
63 | F.S., relating to electric vehicle charging stations;  
64 | providing legislative findings; providing that the  
65 | rates, terms, and conditions of electric vehicle  
66 | charging services by a nonutility are not subject to  
67 | regulation by the Public Service Commission; providing  
68 | construction; providing rulemaking authority to the  
69 | Department of Agriculture and Consumer Services;  
70 | prohibiting parking in spaces specifically designated  
71 | for charging an electric vehicle under specified  
72 | circumstances; providing penalties; amending s.  
73 | 403.519, F.S.; requiring the Public Service  
74 | Commission, in an electrical power plant need  
75 | determination, to consider the need to improve the  
76 | balance of power plant fuel diversity within the state  
77 | and within the generation portfolio of the applicant;  
78 | amending s. 526.203, F.S.; revising the definitions of  
79 | the terms "blended gasoline" and "unblended gasoline";  
80 | defining the term "alternative fuel"; amending s.  
81 | 581.083, F.S.; prohibiting the cultivation of certain  
82 | algae in plantings greater in size than 2 contiguous  
83 | acres; providing exceptions; providing for exemption  
84 | from special permitting requirements by rule; revising

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85 | certain bonding requirements; amending s. 20.121,  
86 | F.S.; establishing the Office of Public Counsel within  
87 | the Financial Services Commission; amending s.  
88 | 350.061, F.S.; providing for appointment and removal  
89 | of the Public Counsel by the Financial Services  
90 | Commission; amending s. 350.0613, F.S.; establishing  
91 | the authority of the Public Counsel to employ  
92 | personnel, set compensation, retain experts, and  
93 | prepare a budget; amending s. 350.0614, F.S.;  
94 | authorizing the Financial Services Commission to set  
95 | the salary of the Public Counsel and allocate salaries  
96 | and expenses for the office; providing for a type two  
97 | transfer of the Office of Public Counsel from the  
98 | Legislature to the Financial Services Commission;  
99 | requiring the Department of Agriculture and Consumer  
100 | Services to conduct a statewide forest inventory  
101 | analysis; requiring the Department of Agriculture and  
102 | Consumer Services, in consultation with other state  
103 | agencies, to develop a clearinghouse of information  
104 | regarding cost savings associated with energy  
105 | efficiency and conservation measures; requiring such  
106 | information to be posted on its website; directing the  
107 | Public Service Commission to conduct a study on the  
108 | potential effects of electric vehicle charging  
109 | stations on both energy consumption and the electric  
110 | grid; requiring the Public Service Commission, in  
111 | consultation with the Department of Agriculture and  
112 | Consumer Services, to contract for an independent

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113 | evaluation of the effectiveness of the Florida Energy  
 114 | Efficiency and Conservation Act; providing an  
 115 | effective date.

116 |

117 | Be It Enacted by the Legislature of the State of Florida:

118 |

119 | Section 1. Subsection (2) of section 186.801, Florida  
 120 | Statutes, is amended to read:

121 | 186.801 Ten-year site plans.—

122 | (2) Within 9 months after the receipt of the proposed  
 123 | plan, the commission shall make a preliminary study of such plan  
 124 | and classify it as "suitable" or "unsuitable." The commission  
 125 | may suggest alternatives to the plan. All findings of the  
 126 | commission shall be made available to the Department of  
 127 | Environmental Protection for its consideration at any subsequent  
 128 | electrical power plant site certification proceedings. It is  
 129 | recognized that 10-year site plans submitted by an electric  
 130 | utility are tentative information for planning purposes only and  
 131 | may be amended at any time at the discretion of the utility upon  
 132 | written notification to the commission. A complete application  
 133 | for certification of an electrical power plant site under  
 134 | chapter 403, when such site is not designated in the current 10-  
 135 | year site plan of the applicant, shall constitute an amendment  
 136 | to the 10-year site plan. In its preliminary study of each 10-  
 137 | year site plan, the commission shall consider such plan as a  
 138 | planning document and shall review:

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

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

142 (c) The anticipated environmental impact of each proposed  
143 electrical power plant site.

144 (d) Possible alternatives to the proposed plan.

145 (e) The views of appropriate local, state, and federal  
146 agencies, including the views of the appropriate water  
147 management district as to the availability of water and its  
148 recommendation as to the use by the proposed plant of salt water  
149 or fresh water for cooling purposes.

150 (f) The extent to which the plan is consistent with the  
151 state comprehensive plan.

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

154 (h) The amount of renewable energy resources the utility  
155 produces or purchases.

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

160 (j) The utility's indication of how the production and  
161 purchase of renewable energy resources affect the utility's  
162 present and future capacity and energy needs.

163 Section 2. Paragraph (d) of subsection (2) of section  
164 212.055, Florida Statutes, is amended to read:

165 212.055 Discretionary sales surtaxes; legislative intent;  
166 authorization and use of proceeds.—It is the legislative intent  
167 that any authorization for imposition of a discretionary sales  
168 surtax shall be published in the Florida Statutes as a

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169 subsection of this section, irrespective of the duration of the  
 170 levy. Each enactment shall specify the types of counties  
 171 authorized to levy; the rate or rates which may be imposed; the  
 172 maximum length of time the surtax may be imposed, if any; the  
 173 procedure which must be followed to secure voter approval, if  
 174 required; the purpose for which the proceeds may be expended;  
 175 and such other requirements as the Legislature may provide.  
 176 Taxable transactions and administrative procedures shall be as  
 177 provided in s. 212.054.

178 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

179 (d) The proceeds of the surtax authorized by this  
 180 subsection and any accrued interest shall be expended by the  
 181 school district, within the county and municipalities within the  
 182 county, or, in the case of a negotiated joint county agreement,  
 183 within another county, to finance, plan, and construct  
 184 infrastructure; to acquire land for public recreation,  
 185 conservation, or protection of natural resources; to provide  
 186 loans, grants, or rebates to residential property owners, with  
 187 preference given to low-income elders, Florida veterans of the  
 188 Armed Forces of the United States, and disabled adults, who make  
 189 energy efficiency improvements to their residential property, if  
 190 a local government ordinance authorizing such use is approved by  
 191 referendum; or to finance the closure of county-owned or  
 192 municipally owned solid waste landfills that have been closed or  
 193 are required to be closed by order of the Department of  
 194 Environmental Protection. Any use of the proceeds or interest  
 195 for purposes of landfill closure before July 1, 1993, is  
 196 ratified. The proceeds and any interest may not be used for the

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197 operational expenses of infrastructure, except that a county  
198 that has a population of fewer than 75,000 and that is required  
199 to close a landfill may use the proceeds or interest for long-  
200 term maintenance costs associated with landfill closure.  
201 Counties, as defined in s. 125.011, and charter counties may, in  
202 addition, use the proceeds or interest to retire or service  
203 indebtedness incurred for bonds issued before July 1, 1987, for  
204 infrastructure purposes, and for bonds subsequently issued to  
205 refund such bonds. Any use of the proceeds or interest for  
206 purposes of retiring or servicing indebtedness incurred for  
207 refunding bonds before July 1, 1999, is ratified.

208 1. For the purposes of this paragraph, the term  
209 "infrastructure" means:

210 a. Any fixed capital expenditure or fixed capital outlay  
211 associated with the construction, reconstruction, or improvement  
212 of public facilities that have a life expectancy of 5 or more  
213 years and any related land acquisition, land improvement,  
214 design, and engineering costs.

215 b. A fire department vehicle, an emergency medical service  
216 vehicle, a sheriff's office vehicle, a police department  
217 vehicle, or any other vehicle, and the equipment necessary to  
218 outfit the vehicle for its official use or equipment that has a  
219 life expectancy of at least 5 years.

220 c. Any expenditure for the construction, lease, or  
221 maintenance of, or provision of utilities or security for,  
222 facilities, as defined in s. 29.008.

223 d. Any fixed capital expenditure or fixed capital outlay  
224 associated with the improvement of private facilities that have



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225 a life expectancy of 5 or more years and that the owner agrees  
226 to make available for use on a temporary basis as needed by a  
227 local government as a public emergency shelter or a staging area  
228 for emergency response equipment during an emergency officially  
229 declared by the state or by the local government under s.  
230 252.38. Such improvements are limited to those necessary to  
231 comply with current standards for public emergency evacuation  
232 shelters. The owner must enter into a written contract with the  
233 local government providing the improvement funding to make the  
234 private facility available to the public for purposes of  
235 emergency shelter at no cost to the local government for a  
236 minimum of 10 years after completion of the improvement, with  
237 the provision that the obligation will transfer to any  
238 subsequent owner until the end of the minimum period.

239 e. Any land acquisition expenditure for a residential  
240 housing project in which at least 30 percent of the units are  
241 affordable to individuals or families whose total annual  
242 household income does not exceed 120 percent of the area median  
243 income adjusted for household size, if the land is owned by a  
244 local government or by a special district that enters into a  
245 written agreement with the local government to provide such  
246 housing. The local government or special district may enter into  
247 a ground lease with a public or private person or entity for  
248 nominal or other consideration for the construction of the  
249 residential housing project on land acquired pursuant to this  
250 sub-subparagraph.

251 2. For the purposes of this paragraph, the term "energy  
252 efficiency improvement" means any energy conservation and

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253 efficiency measure that reduces energy consumption through  
 254 conservation or a more efficient use of electricity, natural  
 255 gas, propane, or other forms of energy on the property,  
 256 including, but not limited to, air sealing; installation of  
 257 insulation; installation of energy-efficient heating, cooling,  
 258 or ventilation systems; installation of solar panels; building  
 259 modifications to increase the use of daylight or shade;  
 260 replacement of windows; installation of energy controls or  
 261 energy recovery systems; installation of electric vehicle  
 262 charging equipment; and installation of efficient lighting  
 263 equipment.

264 ~~3.2.~~ Notwithstanding any other provision of this  
 265 subsection, a local government infrastructure surtax imposed or  
 266 extended after July 1, 1998, may allocate up to 15 percent of  
 267 the surtax proceeds for deposit in a trust fund within the  
 268 county's accounts created for the purpose of funding economic  
 269 development projects having a general public purpose of  
 270 improving local economies, including the funding of operational  
 271 costs and incentives related to economic development. The ballot  
 272 statement must indicate the intention to make an allocation  
 273 under the authority of this subparagraph.

274 Section 3. Paragraph (hhh) is added to subsection (7) of  
 275 section 212.08, Florida Statutes, to read:

276 212.08 Sales, rental, use, consumption, distribution, and  
 277 storage tax; specified exemptions.—The sale at retail, the  
 278 rental, the use, the consumption, the distribution, and the  
 279 storage to be used or consumed in this state of the following  
 280 are hereby specifically exempt from the tax imposed by this

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281 chapter.

282 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any  
 283 entity by this chapter do not inure to any transaction that is  
 284 otherwise taxable under this chapter when payment is made by a  
 285 representative or employee of the entity by any means,  
 286 including, but not limited to, cash, check, or credit card, even  
 287 when that representative or employee is subsequently reimbursed  
 288 by the entity. In addition, exemptions provided to any entity by  
 289 this subsection do not inure to any transaction that is  
 290 otherwise taxable under this chapter unless the entity has  
 291 obtained a sales tax exemption certificate from the department  
 292 or the entity obtains or provides other documentation as  
 293 required by the department. Eligible purchases or leases made  
 294 with such a certificate must be in strict compliance with this  
 295 subsection and departmental rules, and any person who makes an  
 296 exempt purchase with a certificate that is not in strict  
 297 compliance with this subsection and the rules is liable for and  
 298 shall pay the tax. The department may adopt rules to administer  
 299 this subsection.

300 (hhh) Equipment, machinery, and other materials for  
 301 renewable energy technologies.—

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

303 a. "Biodiesel" means the mono-alkyl esters of long-chain  
 304 fatty acids derived from plant or animal matter for use as a  
 305 source of energy and meeting the specifications for biodiesel  
 306 and biodiesel blends with petroleum products as adopted by rule  
 307 of the Department of Agriculture and Consumer Services.

308 "Biodiesel" may refer to biodiesel blends designated BXX, where

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309 XX represents the volume percentage of biodiesel fuel in the  
310 blend.

311 b. "Ethanol" means an anhydrous denatured alcohol produced  
312 by the conversion of carbohydrates meeting the specifications  
313 for fuel ethanol and fuel ethanol blends with petroleum products  
314 as adopted by rule of the Department of Agriculture and Consumer  
315 Services. "Ethanol" may refer to fuel ethanol blends designated  
316 EXX, where XX represents the volume percentage of fuel ethanol  
317 in the blend.

318 c. "Renewable fuel" means a fuel produced from biomass  
319 that is used to replace or reduce the quantity of fossil fuel  
320 present in motor fuel or diesel fuel. "Biomass" means biomass as  
321 defined in s. 366.91, "motor fuel" means motor fuel as defined  
322 in s. 206.01, and "diesel fuel" means diesel fuel as defined in  
323 s. 206.86.

324 2. The sale or use in the state of the following is exempt  
325 from the tax imposed by this chapter. Materials used in the  
326 distribution of biodiesel (B10-B100), ethanol (E10-E100), and  
327 other renewable fuels, including fueling infrastructure,  
328 transportation, and storage, up to a limit of \$1 million in tax  
329 each state fiscal year for all taxpayers. Gasoline fueling  
330 station pump retrofits for biodiesel (B10-B100), ethanol (E10-  
331 E100), and other renewable fuel distribution qualify for the  
332 exemption provided in this paragraph.

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

336 4.a. The exemption provided in this paragraph shall be

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337 available to a purchaser only through a refund of previously  
338 paid taxes. An eligible item is subject to refund one time. A  
339 person who has received a refund on an eligible item shall  
340 notify the next purchaser of the item that the item is no longer  
341 eligible for a refund of paid taxes. The notification shall be  
342 provided to each subsequent purchaser on the sales invoice or  
343 other proof of purchase.

344 b. To be eligible to receive the exemption provided in  
345 this paragraph, a purchaser shall file an application with the  
346 Department of Agriculture and Consumer Services. The application  
347 shall be developed by the Department of Agriculture and Consumer  
348 Services, in consultation with the department, and shall  
349 require:

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

352 (II) A specific description of the purchase for which a  
353 refund is sought, including, when applicable, a serial number or  
354 other permanent identification number.

355 (III) The sales invoice or other proof of purchase showing  
356 the amount of sales tax paid, the date of purchase, and the name  
357 and address of the sales tax dealer from whom the property was  
358 purchased.

359 (IV) A sworn statement that the information provided is  
360 accurate and that the requirements of this paragraph have been  
361 met.

362 c. Within 30 days after receipt of an application, the  
363 Department of Agriculture and Consumer Services shall review the  
364 application and notify the applicant of any deficiencies. Upon

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365 receipt of a completed application, the Department of  
366 Agriculture and Consumer Services shall evaluate the application  
367 for the exemption and issue a written certification that the  
368 applicant is eligible for a refund or issue a written denial of  
369 such certification. The Department of Agriculture and Consumer  
370 Services shall provide the department a copy of each  
371 certification issued upon approval of an application.

372 d. Each certified applicant is responsible for applying  
373 for the refund and forwarding the certification that the  
374 applicant is eligible to the department within 6 months after  
375 certification by the Department of Agriculture and Consumer  
376 Services.

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

379 f. The Department of Agriculture and Consumer Services may  
380 adopt by rule the form for the application for a certificate,  
381 requirements for the content and format of information submitted  
382 to the Department of Agriculture and Consumer Services in  
383 support of the application, other procedural requirements, and  
384 criteria by which the application will be determined. The  
385 Department of Agriculture and Consumer Services may adopt other  
386 rules pursuant to ss. 120.536(1) and 120.54 to administer this  
387 paragraph, including rules establishing additional forms and  
388 procedures for claiming the exemption.

389 g. The Department of Agriculture and Consumer Services  
390 shall be responsible for ensuring that the total amount of the  
391 exemptions authorized do not exceed the limits specified in  
392 subparagraph 2.

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393        5. Approval of the exemptions under this paragraph is on a  
 394 first-come, first-served basis, based upon the date complete  
 395 applications are received by the Department of Agriculture and  
 396 Consumer Services. Incomplete placeholder applications shall not  
 397 be accepted and shall not secure a place in the first-come,  
 398 first-served application line. The Department of Agriculture and  
 399 Consumer Services shall determine and publish on its website on  
 400 a regular basis the amount of sales tax funds remaining in each  
 401 fiscal year.

402        6. This paragraph expires July 1, 2016.

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

405        220.192 Renewable energy technologies investment tax  
 406 credit.—

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

408        (a) "Biodiesel" means biodiesel as defined in s.  
 409 212.08(7)(hhh) former s. 212.08(7)(ccc).

410        (b) "Corporation" includes a general partnership, limited  
 411 partnership, limited liability company, unincorporated business,  
 412 or other business entity, including entities taxed as  
 413 partnerships for federal income tax purposes.

414        (c) "Eligible costs" means:

415        ~~1. Seventy five percent of all capital costs, operation~~  
 416 ~~and maintenance costs, and research and development costs~~  
 417 ~~incurred between July 1, 2006, and June 30, 2010, up to a limit~~  
 418 ~~of \$3 million per state fiscal year for all taxpayers, in~~  
 419 ~~connection with an investment in hydrogen-powered vehicles and~~  
 420 ~~hydrogen vehicle fueling stations in the state, including, but~~

421 ~~not limited to, the costs of constructing, installing, and~~  
 422 ~~equipping such technologies in the state.~~

423 ~~2. Seventy-five percent of all capital costs, operation~~  
 424 ~~and maintenance costs, and research and development costs~~  
 425 ~~incurred between July 1, 2006, and June 30, 2010, up to a limit~~  
 426 ~~of \$1.5 million per state fiscal year for all taxpayers, and~~  
 427 ~~limited to a maximum of \$12,000 per fuel cell, in connection~~  
 428 ~~with an investment in commercial stationary hydrogen fuel cells~~  
 429 ~~in the state, including, but not limited to, the costs of~~  
 430 ~~constructing, installing, and equipping such technologies in the~~  
 431 ~~state.~~

432 ~~3.~~ seventy-five percent of all capital costs, operation  
 433 and maintenance costs, and research and development costs  
 434 incurred between July 1, 2012 ~~2006~~, and June 30, 2016 ~~2010~~, not  
 435 to exceed \$1 million per state fiscal year for each taxpayer and  
 436 up to a limit of \$10 ~~\$6.5~~ million per state fiscal year for all  
 437 taxpayers, in connection with an investment in the production,  
 438 storage, and distribution of biodiesel (B10-B100), and ethanol  
 439 (E10-E100), and other renewable fuel in the state, including the  
 440 costs of constructing, installing, and equipping such  
 441 technologies in the state. Gasoline fueling station pump  
 442 retrofits for biodiesel (B10-B100), ethanol (E10-E100), and  
 443 other renewable fuel distribution qualify as an eligible cost  
 444 under this section ~~subparagraph~~.

445 (d) "Ethanol" means ethanol as defined in s.  
 446 212.08(7)(hhh) ~~former s. 212.08(7)(ccc)~~.

447 (e) "Renewable fuel" means a fuel produced from biomass  
 448 that is used to replace or reduce the quantity of fossil fuel



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449 present in motor fuel or diesel fuel. "Biomass" means biomass as  
450 defined in s. 366.91, "motor fuel" means motor fuel as defined  
451 in s. 206.01, and "diesel fuel" means diesel fuel as defined in  
452 s. 206.86.

453 ~~(e) "Hydrogen fuel cell" means hydrogen fuel cell as~~  
454 ~~defined in former s. 212.08(7)(ccc).~~

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

457 (2) TAX CREDIT.—For tax years beginning on or after  
458 January 1, 2013 ~~2007~~, a credit against the tax imposed by this  
459 chapter shall be granted in an amount equal to the eligible  
460 costs. Credits may be used in tax years beginning January 1,  
461 2013 ~~2007~~, and ending December 31, 2016 ~~2010~~, after which the  
462 credit shall expire. If the credit is not fully used in any one  
463 tax year because of insufficient tax liability on the part of  
464 the corporation, the unused amount may be carried forward and  
465 used in tax years beginning January 1, 2013 ~~2007~~, and ending  
466 December 31, 2018 ~~2012~~, after which the credit carryover expires  
467 and may not be used. A taxpayer that files a consolidated return  
468 in this state as a member of an affiliated group under s.  
469 220.131(1) may be allowed the credit on a consolidated return  
470 basis up to the amount of tax imposed upon the consolidated  
471 group. Any eligible cost for which a credit is claimed and which  
472 is deducted or otherwise reduces federal taxable income shall be  
473 added back in computing adjusted federal income under s. 220.13.

474 (4) TAXPAYER APPLICATION PROCESS.—To claim a credit under  
475 this section, each taxpayer must apply to the Department of  
476 Agriculture and Consumer Services for an allocation of each type

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477 of annual credit by the date established by the Department of  
478 Agriculture and Consumer Services. The application form adopted  
479 by rule of the Department of Agriculture and Consumer Services  
480 must include an affidavit from each taxpayer certifying that all  
481 information contained in the application, including all records  
482 of eligible costs claimed as the basis for the tax credit, are  
483 true and correct. Approval of the credits under this section is  
484 on a first-come, first-served basis, based upon the date  
485 complete applications are received by the Department of  
486 Agriculture and Consumer Services. A taxpayer must submit only  
487 one complete application based upon eligible costs incurred  
488 within a particular state fiscal year. Incomplete placeholder  
489 applications will not be accepted and will not secure a place in  
490 the first-come, first-served application line. If a taxpayer  
491 does not receive a tax credit allocation due to the exhaustion  
492 of the annual tax credit authorizations, then such taxpayer may  
493 reapply in the following year for those eligible costs and will  
494 have priority over other applicants for the allocation of  
495 credits.

496 (6) TRANSFERABILITY OF CREDIT.—

497 (a) For tax years beginning on or after January 1, 2014  
498 ~~2009~~, any corporation or subsequent transferee allowed a tax  
499 credit under this section may transfer the credit, in whole or  
500 in part, to any taxpayer by written agreement without  
501 transferring any ownership interest in the property generating  
502 the credit or any interest in the entity owning such property.  
503 The transferee is entitled to apply the credits against the tax  
504 with the same effect as if the transferee had incurred the

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505 eligible costs.

506 (b) To perfect the transfer, the transferor shall provide  
 507 the Department of Revenue with a written transfer statement  
 508 notifying the Department of Revenue of the transferor's intent  
 509 to transfer the tax credits to the transferee; the date the  
 510 transfer is effective; the transferee's name, address, and  
 511 federal taxpayer identification number; the tax period; and the  
 512 amount of tax credits to be transferred. The Department of  
 513 Revenue shall, upon receipt of a transfer statement conforming  
 514 to the requirements of this section, provide the transferee with  
 515 a certificate reflecting the tax credit amounts transferred. A  
 516 copy of the certificate must be attached to each tax return for  
 517 which the transferee seeks to apply such tax credits.

518 (c) A tax credit authorized under this section that is  
 519 held by a corporation and not transferred under this subsection  
 520 shall be passed through to the taxpayers designated as partners,  
 521 members, or owners, respectively, in the manner agreed to by  
 522 such persons regardless of whether such partners, members, or  
 523 owners are allocated or allowed any portion of the federal  
 524 energy tax credit for the eligible costs. A corporation that  
 525 passes the credit through to a partner, member, or owner must  
 526 comply with the notification requirements described in paragraph  
 527 (b). The partner, member, or owner must attach a copy of the  
 528 certificate to each tax return on which the partner, member, or  
 529 owner claims any portion of the credit.

530 (7) RULES.—The Department of Revenue and the Department of  
 531 Agriculture and Consumer Services shall have the authority to  
 532 adopt rules pursuant to ss. 120.536(1) and 120.54 to administer

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533 | this section, including rules relating to:

534 |       (a) The forms required to claim a tax credit under this  
 535 | section, the requirements and basis for establishing an  
 536 | entitlement to a credit, and the examination and audit  
 537 | procedures required to administer this section.

538 |       (b) The implementation and administration of the  
 539 | provisions allowing a transfer of a tax credit, including rules  
 540 | prescribing forms, reporting requirements, and specific  
 541 | procedures, guidelines, and requirements necessary to transfer a  
 542 | tax credit.

543 |       (8) PUBLICATION.—The Department of Agriculture and  
 544 | Consumer Services shall determine and publish on its website on  
 545 | a regular basis the amount of available tax credits remaining in  
 546 | each fiscal year.

547 |       Section 5. Section 220.193, Florida Statutes, is amended  
 548 | to read:

549 |       220.193 Florida renewable energy production credit.—

550 |       (1) The purpose of this section is to encourage the  
 551 | development and expansion of facilities that produce renewable  
 552 | energy in Florida.

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

554 |       (a) "Commission" shall mean the Public Service Commission.

555 |       (b) "Department" shall mean the Department of Revenue.

556 |       (c) "Expanded facility" shall mean a Florida renewable  
 557 | energy facility that increases its electrical production and  
 558 | sale by more than 5 percent above the facility's electrical  
 559 | production and sale during the 2011 ~~2005~~ calendar year.

560 |       (d) "Florida renewable energy facility" shall mean a

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561 facility in the state that produces electricity for sale from  
 562 renewable energy, as defined in s. 377.803.

563 (e) "New facility" shall mean a Florida renewable energy  
 564 facility that is operationally placed in service after May 1,  
 565 2012 ~~2006~~.

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

569 (g) "Taxpayer" includes a general partnership, limited  
 570 partnership, limited liability company, trust, or other  
 571 artificial entity in which a corporation, as defined in s.  
 572 220.03(1)(e), owns an interest and is taxed as a partnership or  
 573 is disregarded as a separate entity from the corporation under  
 574 this chapter.

575 (3) An annual credit against the tax imposed by this  
 576 section shall be allowed to a taxpayer, based on the taxpayer's  
 577 production and sale of electricity from a new or expanded  
 578 Florida renewable energy facility. For a new facility, the  
 579 credit shall be based on the taxpayer's sale of the facility's  
 580 entire electrical production. For an expanded facility, the  
 581 credit shall be based on the increases in the facility's  
 582 electrical production that are achieved after May 1, 2012 ~~2006~~.

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

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

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589 | under this section must first apply to the department by  
590 | February 1 of each year for an allocation of available credit.  
591 | The department, in consultation with the commission, shall  
592 | develop an application form. The application form shall, at a  
593 | minimum, require a sworn affidavit from each taxpayer certifying  
594 | the increase in production and sales that form the basis of the  
595 | application and certifying that all information contained in the  
596 | application is true and correct.

597 |       (c) If the amount of credits applied for each year exceeds  
598 | \$5 million, the department shall award to each applicant a  
599 | prorated amount based on each applicant's increased production  
600 | and sales and the increased production and sales of all  
601 | applicants.

602 |       (d) If the credit granted pursuant to this section is not  
603 | fully used in one year because of insufficient tax liability on  
604 | the part of the taxpayer, the unused amount may be carried  
605 | forward for a period not to exceed 5 years. The carryover credit  
606 | may be used in a subsequent year when the tax imposed by this  
607 | chapter for such year exceeds the credit for such year, after  
608 | applying the other credits and unused credit carryovers in the  
609 | order provided in s. 220.02(8).

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

614 |       (f)1. Tax credits that may be available under this section  
615 | to an entity eligible under this section may be transferred  
616 | after a merger or acquisition to the surviving or acquiring

617 entity and used in the same manner with the same limitations.

618 2. The entity or its surviving or acquiring entity as  
 619 described in subparagraph 1. may transfer any unused credit in  
 620 whole or in units of no less than 25 percent of the remaining  
 621 credit. The entity acquiring such credit may use it in the same  
 622 manner and with the same limitations under this section. Such  
 623 transferred credits may not be transferred again although they  
 624 may succeed to a surviving or acquiring entity subject to the  
 625 same conditions and limitations as described in this section.

626 3. In the event the credit provided for under this section  
 627 is reduced as a result of an examination or audit by the  
 628 department, such tax deficiency shall be recovered from the  
 629 first entity or the surviving or acquiring entity to have  
 630 claimed such credit up to the amount of credit taken. Any  
 631 subsequent deficiencies shall be assessed against any entity  
 632 acquiring and claiming such credit, or in the case of multiple  
 633 succeeding entities in the order of credit succession.

634 (g) Notwithstanding any other provision of this section,  
 635 credits for the production and sale of electricity from a new or  
 636 expanded Florida renewable energy facility may be earned between  
 637 January 1, 2013 ~~2007~~, and June 30, 2016 ~~2010~~. The amount of tax  
 638 credits that may be granted to each taxpayer under this section  
 639 is limited to \$500,000 per state fiscal year. The combined total  
 640 amount of tax credits which may be granted for all taxpayers  
 641 under this section is limited to \$5 million per state fiscal  
 642 year.

643 (h) A taxpayer claiming a credit under this section shall  
 644 be required to add back to net income that portion of its

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645 business deductions claimed on its federal return paid or  
646 incurred for the taxable year which is equal to the amount of  
647 the credit allowable for the taxable year under this section.

648 (i) A taxpayer claiming credit under this section may not  
649 claim a credit under s. 220.192. A taxpayer claiming credit  
650 under s. 220.192 may not claim a credit under this section.

651 (j) When an entity treated as a partnership or a  
652 disregarded entity under this chapter produces and sells  
653 electricity from a new or expanded renewable energy facility,  
654 the credit earned by such entity shall pass through in the same  
655 manner as items of income and expense pass through for federal  
656 income tax purposes. When an entity applies for the credit and  
657 the entity has received the credit by a pass-through, the  
658 application must identify the taxpayer that passed the credit  
659 through, all taxpayers that received the credit, and the  
660 percentage of the credit that passes through to each recipient  
661 and must provide other information that the department requires.

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

665 (4) The department may adopt rules to implement and  
666 administer this section, including rules prescribing forms, the  
667 documentation needed to substantiate a claim for the tax credit,  
668 and the specific procedures and guidelines for claiming the  
669 credit.

670 (5) This section shall take effect upon becoming law and  
671 shall apply to tax years beginning on and after January 1, 2013  
672 ~~2007~~.



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673 Section 6. Subsection (3) of section 255.257, Florida  
 674 Statutes, is amended to read:

675 255.257 Energy management; buildings occupied by state  
 676 agencies.—

677 (3) CONTENTS OF THE STATE ENERGY MANAGEMENT PLAN.—The  
 678 Department of Management Services, in coordination with the  
 679 Department of Agriculture and Consumer Services, shall further  
 680 develop the ~~a~~ state energy management plan consisting of, but  
 681 not limited to, the following elements:

- 682 (a) Data-gathering requirements;
- 683 (b) Building energy audit procedures;
- 684 (c) Uniform data analysis and reporting procedures;
- 685 (d) Employee energy education program measures;
- 686 (e) Energy consumption reduction techniques;
- 687 (f) Training program for state agency energy management  
 688 coordinators; and
- 689 (g) Guidelines for building managers.

690  
 691 The plan shall include a description of actions that state  
 692 agencies shall take to reduce consumption of electricity and  
 693 nonrenewable energy sources used for space heating and cooling,  
 694 ventilation, lighting, water heating, and transportation.

695 Section 7. Paragraph (q) of subsection (2) of section  
 696 288.106, Florida Statutes, is amended to read:

697 288.106 Tax refund program for qualified target industry  
 698 businesses.—

- 699 (2) DEFINITIONS.—As used in this section:
- 700 (q) "Target industry business" means a corporate

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701 headquarters business or any business that is engaged in one of  
702 the target industries identified pursuant to the following  
703 criteria developed by the department in consultation with  
704 Enterprise Florida, Inc.:

705 1. Future growth.—Industry forecasts should indicate  
706 strong expectation for future growth in both employment and  
707 output, according to the most recent available data. Special  
708 consideration should be given to businesses that export goods  
709 to, or provide services in, international markets and businesses  
710 that replace domestic and international imports of goods or  
711 services.

712 2. Stability.—The industry should not be subject to  
713 periodic layoffs, whether due to seasonality or sensitivity to  
714 volatile economic variables such as weather. The industry should  
715 also be relatively resistant to recession, so that the demand  
716 for products of this industry is not typically subject to  
717 decline during an economic downturn.

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

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

724 5. Industrial base diversification and strengthening.—The  
725 industry should contribute toward expanding or diversifying the  
726 state's or area's economic base, as indicated by analysis of  
727 employment and output shares compared to national and regional  
728 trends. Special consideration should be given to industries that

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729 strengthen regional economies by adding value to basic products  
730 or building regional industrial clusters as indicated by  
731 industry analysis. Special consideration should also be given to  
732 the development of strong industrial clusters that include  
733 defense and homeland security businesses.

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

739  
740 The term does not include any business engaged in retail  
741 industry activities; any electrical utility company as defined  
742 in s. 366.02(2); any phosphate or other solid minerals  
743 severance, mining, or processing operation; any oil or gas  
744 exploration or production operation; or any business subject to  
745 regulation by the Division of Hotels and Restaurants of the  
746 Department of Business and Professional Regulation. Any business  
747 within NAICS code 5611 or 5614, office administrative services  
748 and business support services, respectively, may be considered a  
749 target industry business only after the local governing body and  
750 Enterprise Florida, Inc., make a determination that the  
751 community where the business may locate has conditions affecting  
752 the fiscal and economic viability of the local community or  
753 area, including but not limited to, factors such as low per  
754 capita income, high unemployment, high underemployment, and a  
755 lack of year-round stable employment opportunities, and such  
756 conditions may be improved by the location of such a business to

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757 the community. By January 1 of every 3rd year, beginning January  
758 1, 2011, the department, in consultation with Enterprise  
759 Florida, Inc., economic development organizations, the State  
760 University System, local governments, employee and employer  
761 organizations, market analysts, and economists, shall review  
762 and, as appropriate, revise the list of such target industries  
763 and submit the list to the Governor, the President of the  
764 Senate, and the Speaker of the House of Representatives.

765 Section 8. Paragraph (a) of subsection (5) of section  
766 20.60, Florida Statutes, is amended to read:

767 20.60 Department of Economic Opportunity; creation; powers  
768 and duties.—

769 (5) The divisions within the department have specific  
770 responsibilities to achieve the duties, responsibilities, and  
771 goals of the department. Specifically:

772 (a) The Division of Strategic Business Development shall:

773 1. Analyze and evaluate business prospects identified by  
774 the Governor, the executive director of the department, and  
775 Enterprise Florida, Inc.

776 2. Independently analyze and evaluate the regional and  
777 statewide economic benefits associated with a renewable energy  
778 project submitted to the Public Service Commission for a public  
779 interest determination and provided to the department for review  
780 pursuant to s. 366.92.

781 ~~3.2.~~ Administer certain tax refund, tax credit, and grant  
782 programs created in law. Notwithstanding any other provision of  
783 law, the department may expend interest earned from the  
784 investment of program funds deposited in the Grants and

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785 Donations Trust Fund to contract for the administration of those  
 786 programs, or portions of the programs, assigned to the  
 787 department by law, by the appropriations process, or by the  
 788 Governor. Such expenditures shall be subject to review under  
 789 chapter 216.

790 ~~4.3.~~ Develop measurement protocols for the state incentive  
 791 programs and for the contracted entities which will be used to  
 792 determine their performance and competitive value to the state.  
 793 Performance measures, benchmarks, and sanctions must be  
 794 developed in consultation with the legislative appropriations  
 795 committees and the appropriate substantive committees, and are  
 796 subject to the review and approval process provided in s.  
 797 216.177. The approved performance measures, standards, and  
 798 sanctions shall be included and made a part of the strategic  
 799 plan for contracts entered into for delivery of programs  
 800 authorized by this section.

801 ~~5.4.~~ Develop a 5-year statewide strategic plan. The  
 802 strategic plan must include, but need not be limited to:  
 803 a. Strategies for the promotion of business formation,  
 804 expansion, recruitment, and retention through aggressive  
 805 marketing, international development, and export assistance,  
 806 which lead to more and better jobs and higher wages for all  
 807 geographic regions, disadvantaged communities, and populations  
 808 of the state, including rural areas, minority businesses, and  
 809 urban core areas.  
 810 b. The development of realistic policies and programs to  
 811 further the economic diversity of the state, its regions, and  
 812 their associated industrial clusters.

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813 c. Specific provisions for the stimulation of economic  
814 development and job creation in rural areas and midsize cities  
815 and counties of the state, including strategies for rural  
816 marketing and the development of infrastructure in rural areas.

817 d. Provisions for the promotion of the successful long-  
818 term economic development of the state with increased emphasis  
819 in market research and information.

820 e. Plans for the generation of foreign investment in the  
821 state which create jobs paying above-average wages and which  
822 result in reverse investment in the state, including programs  
823 that establish viable overseas markets, assist in meeting the  
824 financing requirements of export-ready firms, broaden  
825 opportunities for international joint venture relationships, use  
826 the resources of academic and other institutions, coordinate  
827 trade assistance and facilitation services, and facilitate  
828 availability of and access to education and training programs  
829 that assure requisite skills and competencies necessary to  
830 compete successfully in the global marketplace.

831 f. The identification of business sectors that are of  
832 current or future importance to the state's economy and to the  
833 state's global business image, and development of specific  
834 strategies to promote the development of such sectors.

835 g. Strategies for talent development necessary in the  
836 state to encourage economic development growth, taking into  
837 account factors such as the state's talent supply chain,  
838 education and training opportunities, and available workforce.

839 ~~6.5.~~ Update the strategic plan every 5 years.

840 ~~7.6.~~ Involve Enterprise Florida, Inc.; Workforce Florida,

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841 Inc.; local governments; the general public; local and regional  
 842 economic development organizations; other local, state, and  
 843 federal economic, international, and workforce development  
 844 entities; the business community; and educational institutions  
 845 to assist with the strategic plan.

846 Section 9. Section 366.92, Florida Statutes, is amended to  
 847 read:

848 366.92 Florida renewable energy policy.—

849 (1) It is the intent of the Legislature to promote the  
 850 development of renewable energy; protect the economic viability  
 851 of Florida's existing renewable energy facilities; diversify the  
 852 types of fuel used to generate electricity in Florida; lessen  
 853 Florida's dependence on natural gas and fuel oil for the  
 854 production of electricity; minimize the volatility of fuel  
 855 costs; encourage investment within the state; improve  
 856 environmental conditions; and, at the same time, minimize the  
 857 costs of power supply to electric utilities and their customers.

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

859 (a) "Department" means the Department of Economic  
 860 Opportunity ~~"Florida renewable energy resources" means renewable~~  
 861 ~~energy, as defined in s. 377.803, that is produced in Florida.~~

862 ~~(b) "Provider" means a "utility" as defined in s.~~  
 863 ~~366.8255(1)(a).~~

864 ~~(b)(e)~~ "Renewable energy" means renewable energy as  
 865 defined in s. 366.91(2)(d) that is produced in this state.

866 (c) "Renewable energy project" means the construction of a  
 867 new renewable energy generating facility, the conversion of an  
 868 existing fossil fuel generating facility to a renewable energy

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869 generating facility, or a contract for the purchase of renewable  
 870 energy from a nonutility generating facility.

871 (d) "Utility" means an electric utility as defined in s.  
 872 366.8255 "Renewable energy credit" or "REC" means a product that  
 873 represents the unbundled, separable, renewable attribute of  
 874 renewable energy produced in Florida and is equivalent to 1  
 875 megawatt-hour of electricity generated by a source of renewable  
 876 energy located in Florida.

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

881 (3) (a) A utility may petition the commission to determine  
 882 that a proposed renewable energy project, selected as a result  
 883 of competitive bidding, is in the public interest.

884 Notwithstanding s. 366.91(3) and (4), the commission shall  
 885 determine that a proposed project is in the public interest if  
 886 the commission finds that the project provides an overall net  
 887 benefit to the state. A public interest determination is  
 888 available only for those renewable energy projects that are  
 889 exempt from the requirement to obtain a determination of need  
 890 pursuant to s. 403.519.

891 (b) In evaluating whether a renewable energy project,  
 892 selected as a result of competitive bidding and proposed by a  
 893 utility for consideration, is prudent and in the public  
 894 interest, the commission shall consider:

895 1. The estimated cost and estimated rate impacts of the  
 896 project;



897           2. The impact of the project on the reliability and  
 898 integrity of the utility's system and the statewide electric  
 899 grid;

900           3. The extent to which the project strengthens fuel supply  
 901 reliability to the utility and the state;

902           4. The extent to which the project promotes rate stability  
 903 by reducing the risk of fuel cost volatility;

904           5. The extent to which the project retains energy  
 905 expenditures in the state or regional economy;

906           6. The extent to which the project reduces the utility's  
 907 regulatory costs associated with adverse environmental impacts;  
 908 and

909           7. The regional and statewide economic benefits associated  
 910 with the project, including independent analysis of these  
 911 benefits by the department.

912           (c) The commission shall approve for recovery through the  
 913 environmental cost recovery clause all reasonable and prudent  
 914 costs incurred by a utility for a renewable energy project that  
 915 the commission determines to be in the public interest. For a  
 916 new renewable energy generating facility, recoverable costs  
 917 include, but are not limited to, the siting, licensing,  
 918 engineering, design, permitting, construction, operation, and  
 919 maintenance of such facilities, including any applicable taxes  
 920 and a return based on the utility's last authorized rate of  
 921 return. For conversion of an existing fossil fuel generating  
 922 facility to a renewable energy generating facility, recoverable  
 923 costs include reasonable and prudent conversion costs, including  
 924 the costs of retirement of the fossil fuel plant that exceed any

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925 amounts accrued by the provider for such purposes through rates  
 926 previously set by the commission. For purchase of renewable  
 927 energy from a nonutility generating facility, recoverable costs  
 928 include the reasonable and prudent costs associated with the  
 929 purchase.

930 ~~(3) The commission shall adopt rules for a renewable~~  
 931 ~~portfolio standard requiring each provider to supply renewable~~  
 932 ~~energy to its customers directly, by procuring, or through~~  
 933 ~~renewable energy credits. In developing the RPS rule, the~~  
 934 ~~commission shall consult the Department of Environmental~~  
 935 ~~Protection and the Department of Agriculture and Consumer~~  
 936 ~~Services. The rule shall not be implemented until ratified by~~  
 937 ~~the Legislature. The commission shall present a draft rule for~~  
 938 ~~legislative consideration by February 1, 2009.~~

939 ~~(a) In developing the rule, the commission shall evaluate~~  
 940 ~~the current and forecasted levelized cost in cents per kilowatt~~  
 941 ~~hour through 2020 and current and forecasted installed capacity~~  
 942 ~~in kilowatts for each renewable energy generation method through~~  
 943 ~~2020.~~

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

945 ~~1. Shall include methods of managing the cost of~~  
 946 ~~compliance with the renewable portfolio standard, whether~~  
 947 ~~through direct supply or procurement of renewable power or~~  
 948 ~~through the purchase of renewable energy credits. The commission~~  
 949 ~~shall have rulemaking authority for providing annual cost~~  
 950 ~~recovery and incentive-based adjustments to authorized rates of~~  
 951 ~~return on common equity to providers to incentivize renewable~~  
 952 ~~energy. Notwithstanding s. 366.91(3) and (4), upon the~~

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953 ~~ratification of the rules developed pursuant to this subsection,~~  
954 ~~the commission may approve projects and power sales agreements~~  
955 ~~with renewable power producers and the sale of renewable energy~~  
956 ~~credits needed to comply with the renewable portfolio standard.~~  
957 ~~In the event of any conflict, this subparagraph shall supersede~~  
958 ~~s. 366.91(3) and (4). However, nothing in this section shall~~  
959 ~~alter the obligation of each public utility to continuously~~  
960 ~~offer a purchase contract to producers of renewable energy.~~

961 ~~2. Shall provide for appropriate compliance measures and~~  
962 ~~the conditions under which noncompliance shall be excused due to~~  
963 ~~a determination by the commission that the supply of renewable~~  
964 ~~energy or renewable energy credits was not adequate to satisfy~~  
965 ~~the demand for such energy or that the cost of securing~~  
966 ~~renewable energy or renewable energy credits was cost~~  
967 ~~prohibitive.~~

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

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

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

977 ~~6. Shall ensure that energy credited toward compliance~~  
978 ~~with the requirements of this section is not credited toward any~~  
979 ~~other purpose.~~

980 ~~7. Shall include procedures to track and account for~~

981 ~~renewable energy credits, including ownership of renewable~~  
 982 ~~energy credits that are derived from a customer-owned renewable~~  
 983 ~~energy facility as a result of any action by a customer of an~~  
 984 ~~electric power supplier that is independent of a program~~  
 985 ~~sponsored by the electric power supplier.~~

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

989 ~~(c) Beginning on April 1 of the year following final~~  
 990 ~~adoption of the commission's renewable portfolio standard rule,~~  
 991 ~~each provider shall submit a report to the commission describing~~  
 992 ~~the steps that have been taken in the previous year and the~~  
 993 ~~steps that will be taken in the future to add renewable energy~~  
 994 ~~to the provider's energy supply portfolio. The report shall~~  
 995 ~~state whether the provider was in compliance with the renewable~~  
 996 ~~portfolio standard during the previous year and how it will~~  
 997 ~~comply with the renewable portfolio standard in the upcoming~~  
 998 ~~year.~~

999 (4) The commission shall adopt rules to implement a public  
 1000 interest determination process by which it shall determine  
 1001 whether a renewable energy project, proposed by a utility for  
 1002 purposes of supplying electrical energy to its retail customers,  
 1003 provides an overall net benefit to the state pursuant to the  
 1004 criteria in subsection (3). The commission's rules shall:

1005 (a) Provide a process for competitive bidding of a  
 1006 renewable energy project based on the type and technology of the  
 1007 renewable energy resource that the utility elects to use.

1008 (b) Provide minimum requirements and information that a

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1009 utility must include in a request for proposals for a new  
 1010 renewable energy project and other information related to the  
 1011 request for proposal and competitive bidding processes.

1012 (c) Establish minimum requirements and information that a  
 1013 utility must include in a petition for a public interest  
 1014 determination for a renewable energy project.

1015 (d) Provide for recovery through the environmental cost  
 1016 recovery clause of all reasonable and prudent costs incurred by  
 1017 a utility for a renewable energy project that the commission  
 1018 determines to be in the public interest pursuant to subsection  
 1019 (3).

1020 (e) Establish a mechanism for the sharing of revenues  
 1021 derived from any renewable energy credit, carbon credit, or  
 1022 other mechanism that attributes value to the production of  
 1023 renewable energy, either existing or hereafter devised, and  
 1024 received by a utility by virtue of the production or purchase of  
 1025 renewable energy found to be in the public interest pursuant to  
 1026 subsection (3). The utility shall be entitled to retain from  
 1027 these revenues no more than the amount deemed reasonable by the  
 1028 commission to cover the utility's transaction costs associated  
 1029 with the credit or other mechanism, plus 5 percent of the  
 1030 remaining revenues. The remainder of the revenues shall be  
 1031 credited to the utility's ratepayers.

1032 (f) Require a utility to report to the commission on an  
 1033 annual basis, with respect to any renewable energy project that  
 1034 the commission determines to be in the public interest, the  
 1035 status of the project, the economic impacts of the project on  
 1036 the region and the state, the amount and type of fuel displaced

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1037 by the project, operational statistics, and any other  
 1038 information deemed relevant by the commission.

1039 (g) Require a seller of renewable energy, under a  
 1040 purchased power agreement approved pursuant to the commission's  
 1041 rules and this subsection, to surrender to the utility all  
 1042 renewable attributes of the renewable energy purchased.

1043  
 1044 Agency rules promulgated under the authority of this subsection  
 1045 shall not take effect before July 1, 2013.

1046 ~~(4) In order to demonstrate the feasibility and viability~~  
 1047 ~~of clean energy systems, the commission shall provide for full~~  
 1048 ~~cost recovery under the environmental cost-recovery clause of~~  
 1049 ~~all reasonable and prudent costs incurred by a provider for~~  
 1050 ~~renewable energy projects that are zero greenhouse gas emitting~~  
 1051 ~~at the point of generation, up to a total of 110 megawatts~~  
 1052 ~~statewide, and for which the provider has secured necessary~~  
 1053 ~~land, zoning permits, and transmission rights within the state.~~  
 1054 ~~Such costs shall be deemed reasonable and prudent for purposes~~  
 1055 ~~of cost recovery so long as the provider has used reasonable and~~  
 1056 ~~customary industry practices in the design, procurement, and~~  
 1057 ~~construction of the project in a cost-effective manner~~  
 1058 ~~appropriate to the location of the facility. The provider shall~~  
 1059 ~~report to the commission as part of the cost-recovery~~  
 1060 ~~proceedings the construction costs, in-service costs, operating~~  
 1061 ~~and maintenance costs, hourly energy production of the renewable~~  
 1062 ~~energy project, and any other information deemed relevant by the~~  
 1063 ~~commission. Any provider constructing a clean energy facility~~  
 1064 ~~pursuant to this section shall file for cost recovery no later~~

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1065 ~~than July 1, 2009.~~

1066 (5) (a) Within 7 days after receipt of a petition for a  
 1067 public interest determination pursuant to subsection (3), the  
 1068 commission, through administrative review by its staff, shall  
 1069 determine whether the petition is complete. If the commission  
 1070 finds that the petition is not complete, it shall notify the  
 1071 petitioner of all deficiencies and provide the petitioner an  
 1072 opportunity to correct the deficiencies through an amended or  
 1073 supplemental filing.

1074 (b) When the commission determines that a petition is  
 1075 complete, the commission shall notify the department and forward  
 1076 a copy of the petition to the department within 3 days. After  
 1077 receipt and review of the petition, the department may request  
 1078 any additional information it deems necessary to complete the  
 1079 review of the petition pursuant to s. 20.60(5) (a).

1080 (c) Within 45 days after receipt of the complete petition,  
 1081 the department shall complete its analysis and evaluation and  
 1082 submit a report reflecting its findings to the commission for  
 1083 consideration in the commission's public interest determination  
 1084 proceeding. The department's report is not subject to the  
 1085 provisions of ss. 120.569 and 120.57. Any party to the  
 1086 commission's public interest determination proceeding may  
 1087 present evidence to the commission concerning the regional and  
 1088 statewide economic benefits associated with the project.

1089 (d) The commission shall issue a final order within 180  
 1090 days after receipt of a complete petition for a public interest  
 1091 determination filed pursuant to subsection (3).

1092 (6)-(5)- Each municipal electric utility and rural electric

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1093 cooperative shall develop standards for the promotion,  
 1094 encouragement, and expansion of the use of renewable energy  
 1095 resources and energy conservation and efficiency measures. On or  
 1096 before April 1, 2009, and annually thereafter, each municipal  
 1097 electric utility and electric cooperative shall submit to the  
 1098 commission a report that identifies such standards.

1099 (7)-(6) Nothing in This section and any action taken under  
 1100 this section may not shall be construed to impede or impair the  
 1101 terms and conditions of, or serve as a basis for renegotiating  
 1102 or repricing an existing contract contracts. This section may  
 1103 not be construed to apply to purchases required pursuant to s.  
 1104 366.051 or s. 366.91.

1105 (8)-(7) The commission may adopt rules to administer and  
 1106 implement the provisions of this section.

1107 Section 10. Section 366.94, Florida Statutes, is created  
 1108 to read:

1109 366.94 Electric vehicle charging stations.-

1110 (1) LEGISLATIVE FINDINGS.-The Legislature finds that the  
 1111 provision of electric vehicle charging to the public by a  
 1112 nonutility is a service and not the retail sale of electricity.  
 1113 The rates, terms, and conditions of electric vehicle charging  
 1114 services by a nonutility are not subject to regulation under  
 1115 this chapter. Nothing in this section affects the ability of  
 1116 individuals, businesses, or governmental entities to acquire,  
 1117 install, or use an electric vehicle charger for their own  
 1118 vehicles.

1119 (2) RULES.-The Department of Agriculture and Consumer  
 1120 Services shall adopt rules to provide definitions, methods of



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1121 sale, labeling requirements, and price-posting requirements for  
 1122 electric vehicle charging stations to allow for consistency for  
 1123 consumers and the industry.

1124 (3) PARKING SPACES FOR ELECTRIC VEHICLE CHARGING  
 1125 STATIONS.—

1126 (a) It is unlawful for a person to stop, stand, or park a  
 1127 vehicle that is not capable of using an electrical recharging  
 1128 station within any parking space specifically designated for  
 1129 charging an electric vehicle.

1130 (b) If a law enforcement officer finds a motor vehicle in  
 1131 violation of this subsection, the officer or specialist shall  
 1132 charge the operator or other person in charge of the vehicle in  
 1133 violation with a noncriminal traffic infraction, punishable as  
 1134 provided in s. 316.008(4) or s. 318.18.

1135 Section 11. Subsection (3) of section 403.519, Florida  
 1136 Statutes, is amended to read:

1137 403.519 Exclusive forum for determination of need.—

1138 (3) The commission is ~~shall be~~ the sole forum for the  
 1139 determination of this matter, which accordingly may ~~shall~~ not be  
 1140 raised in any other forum or in the review of proceedings in  
 1141 such other forum. In making its determination, the commission  
 1142 shall take into account the need for electric system reliability  
 1143 and integrity, the need for adequate electricity at a reasonable  
 1144 cost, the need to improve the balance of power plant ~~for~~ fuel  
 1145 diversity and supply reliability within the state and within the  
 1146 generation portfolio of the applicant, whether the proposed  
 1147 plant is the most cost-effective alternative available, and  
 1148 whether renewable energy sources and technologies, as well as

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1149 conservation measures, are used ~~utilized~~ to the extent  
 1150 reasonably available. The commission shall also expressly  
 1151 consider the conservation measures taken by or reasonably  
 1152 available to the applicant or its members which might mitigate  
 1153 the need for the proposed plant and other matters within its  
 1154 jurisdiction which it deems relevant. The commission's  
 1155 determination of need for an electrical power plant creates  
 1156 ~~shall create~~ a presumption of public need and necessity and  
 1157 serves ~~shall serve~~ as the commission's report required by s.  
 1158 403.507(4). An order entered pursuant to this section  
 1159 constitutes final agency action.

1160 Section 12. Subsection (1) of section 526.203, Florida  
 1161 Statutes, is amended to read:

1162 526.203 Renewable fuel standard.—

1163 (1) DEFINITIONS.—As used in this act:

1164 (a) "Alternative fuel" means a fuel produced from biomass,  
 1165 as defined in s. 366.91, that is used to replace or reduce the  
 1166 quantity of fossil fuel present in a petroleum fuel that meets  
 1167 the specifications as adopted by the department.

1168 (b) ~~(a)~~ "Blender," "importer," "terminal supplier," and  
 1169 "wholesaler" are defined as provided in s. 206.01.

1170 (c) ~~(b)~~ "Blended gasoline" means a mixture of 90 to 91  
 1171 percent gasoline and 9 to 10 percent fuel ethanol or other  
 1172 alternative fuel, by volume, that meets the specifications as  
 1173 adopted by the department. The fuel ethanol or other alternative  
 1174 fuel portion may be derived from any agricultural source.

1175 (d) ~~(c)~~ "Fuel ethanol" means an anhydrous denatured alcohol  
 1176 produced by the conversion of carbohydrates that meets the

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1177 specifications as adopted by the department.

1178 (e)~~(d)~~ "Unblended gasoline" means gasoline that has not  
 1179 been blended with fuel ethanol or other alternative fuel and  
 1180 that meets the specifications as adopted by the department.

1181 Section 13. Subsection (4) of section 581.083, Florida  
 1182 Statutes, is amended to read:

1183 581.083 Introduction or release of plant pests, noxious  
 1184 weeds, or organisms affecting plant life; cultivation of  
 1185 nonnative plants; special permit and security required.—

1186 (4) A person may not cultivate a nonnative plant, algae,  
 1187 or blue-green algae, including a genetically engineered plant,  
 1188 algae, or blue-green algae ~~or a plant that has been introduced,~~  
 1189 ~~for purposes of fuel production or purposes other than~~  
 1190 ~~agriculture~~ in plantings greater in size than 2 contiguous  
 1191 acres, except under a special permit issued by the department  
 1192 through the division, which is the sole agency responsible for  
 1193 issuing such special permits. Such a permit shall not be  
 1194 required if the department determines, after consulting ~~in~~  
 1195 ~~conjunction~~ with the Institute of Food and Agricultural Sciences  
 1196 at the University of Florida, that, based on experience or  
 1197 research data, the nonnative plant, algae, or blue-green algae  
 1198 does not pose a known threat of becoming an ~~is not~~ invasive  
 1199 species or a pest of plants or native fauna under conditions in  
 1200 this state and subsequently exempts the plant by rule. A permit  
 1201 shall not be required for any plant or group of plants that,  
 1202 based on experience or research data, does not pose a known  
 1203 threat of becoming an invasive species and is commonly grown in  
 1204 this state for the purposes of human food consumption or for

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1205 commercial feed, feedstuff, forage for livestock, nursery stock,  
 1206 or silviculture.

1207 (a)1. Each application for a special permit must be  
 1208 accompanied by a fee as described in subsection (2) and proof  
 1209 that the applicant has obtained, on a form approved by the  
 1210 department, ~~a bond in the form approved by the department and~~  
 1211 issued by a surety company admitted to do business in this state  
 1212 or a certificate of deposit, or other type of security adopted  
 1213 by rule of the department which provides a financial assurance  
 1214 of cost recovery for the removal of a planting. The application  
 1215 must include, on a form provided by the department, the name of  
 1216 the applicant and the applicant's address or the address of the  
 1217 applicant's principal place of business; a statement completely  
 1218 identifying the nonnative plant to be cultivated; and a  
 1219 statement of the estimated cost of removing and destroying the  
 1220 plant that is the subject of the special permit and the basis  
 1221 for calculating or determining that estimate. If the applicant  
 1222 is a corporation, partnership, or other business entity, the  
 1223 applicant must also provide in the application the name and  
 1224 address of each officer, partner, or managing agent. The  
 1225 applicant shall notify the department within 10 business days of  
 1226 any change of address or change in the principal place of  
 1227 business. The department shall mail all notices to the  
 1228 applicant's last known address.

1229 2. As used in this subsection, the term "certificate of  
 1230 deposit" means a certificate of deposit at any recognized  
 1231 financial institution doing business in the United States. The  
 1232 department may not accept a certificate of deposit in connection

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1233 with the issuance of a special permit unless the issuing  
1234 institution is properly insured by the Federal Deposit Insurance  
1235 Corporation or the Federal Savings and Loan Insurance  
1236 Corporation.

1237 (b) Upon obtaining a permit, the permitholder may annually  
1238 cultivate and maintain the nonnative plants as authorized by the  
1239 special permit. If the permitholder ceases to maintain or  
1240 cultivate the plants authorized by the special permit, if the  
1241 permit expires, or if the permitholder ceases to abide by the  
1242 conditions of the special permit, the permitholder shall  
1243 immediately remove and destroy the plants that are subject to  
1244 the permit, if any remain. The permitholder shall notify the  
1245 department of the removal and destruction of the plants within  
1246 10 days after such event.

1247 (c) If the department:

1248 1. Determines that the permitholder is no longer  
1249 maintaining or cultivating the plants subject to the special  
1250 permit and has not removed and destroyed the plants authorized  
1251 by the special permit;

1252 2. Determines that the continued maintenance or  
1253 cultivation of the plants presents an imminent danger to public  
1254 health, safety, or welfare;

1255 3. Determines that the permitholder has exceeded the  
1256 conditions of the authorized special permit; or

1257 4. Receives a notice of cancellation of the surety bond,  
1258

1259 the department may issue an immediate final order, which shall  
1260 be immediately appealable or enjoicable as provided by chapter

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1261 120, directing the permitholder to immediately remove and  
1262 destroy the plants authorized to be cultivated under the special  
1263 permit. A copy of the immediate final order must ~~shall~~ be mailed  
1264 to the permitholder and to the surety company or financial  
1265 institution that has provided security for the special permit,  
1266 if applicable.

1267 (d) If, upon issuance by the department of an immediate  
1268 final order to the permitholder, the permitholder fails to  
1269 remove and destroy the plants subject to the special permit  
1270 within 60 days after issuance of the order, or such shorter  
1271 period as is designated in the order as public health, safety,  
1272 or welfare requires, the department may enter the cultivated  
1273 acreage and remove and destroy the plants that are the subject  
1274 of the special permit. If the permitholder makes a written  
1275 request to the department for an extension of time to remove and  
1276 destroy the plants that demonstrates specific facts showing why  
1277 the plants could not reasonably be removed and destroyed in the  
1278 applicable timeframe, the department may extend the time for  
1279 removing and destroying plants subject to a special permit. The  
1280 reasonable costs and expenses incurred by the department for  
1281 removing and destroying plants subject to a special permit shall  
1282 be reimbursed to the department by the permitholder within 21  
1283 days after the date the permitholder and the surety company or  
1284 financial institution are served a copy of the department's  
1285 invoice for the costs and expenses incurred by the department to  
1286 remove and destroy the cultivated plants, along with a notice of  
1287 administrative rights, unless the permitholder or the surety  
1288 company or financial institution object to the reasonableness of

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1289 the invoice. In the event of an objection, the permitholder or  
1290 surety company or financial institution is entitled to an  
1291 administrative proceeding as provided by chapter 120. Upon entry  
1292 of a final order determining the reasonableness of the incurred  
1293 costs and expenses, the permitholder has ~~shall have~~ 15 days  
1294 after ~~following~~ service of the final order to reimburse the  
1295 department. Failure of the permitholder to timely reimburse the  
1296 department for the incurred costs and expenses entitles the  
1297 department to reimbursement from the applicable bond or  
1298 certificate of deposit.

1299 (e) Each permitholder shall maintain for each separate  
1300 growing location a bond or a certificate of deposit in an amount  
1301 determined by the department, but not more ~~less~~ than 150 percent  
1302 of the estimated cost of removing and destroying the cultivated  
1303 plants. The bond or certificate of deposit may not exceed \$5,000  
1304 per acre, unless a higher amount is determined by the department  
1305 to be necessary to protect the public health, safety, and  
1306 welfare or unless an exemption is granted by the department  
1307 based on conditions specified in the application which would  
1308 preclude the department from incurring the cost of removing and  
1309 destroying the cultivated plants and would prevent injury to the  
1310 public health, safety, and welfare. The aggregate liability of  
1311 the surety company or financial institution to all persons for  
1312 all breaches of the conditions of the bond or certificate of  
1313 deposit may not exceed the amount of the bond or certificate of  
1314 deposit. The original bond or certificate of deposit required by  
1315 this subsection shall be filed with the department. A surety  
1316 company shall give the department 30 days' written notice of

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1317 cancellation, by certified mail, in order to cancel a bond.  
1318 Cancellation of a bond does not relieve a surety company of  
1319 liability for paying to the department all costs and expenses  
1320 incurred or to be incurred for removing and destroying the  
1321 permitted plants covered by an immediate final order authorized  
1322 under paragraph (c). A bond or certificate of deposit must be  
1323 provided or assigned in the exact name in which an applicant  
1324 applies for a special permit. The penal sum of the bond or  
1325 certificate of deposit to be furnished to the department by a  
1326 permitholder in the amount specified in this paragraph must  
1327 guarantee payment of the costs and expenses incurred or to be  
1328 incurred by the department for removing and destroying the  
1329 plants cultivated under the issued special permit. The bond or  
1330 certificate of deposit assignment or agreement must be upon a  
1331 form prescribed or approved by the department and must be  
1332 conditioned to secure the faithful accounting for and payment of  
1333 all costs and expenses incurred by the department for removing  
1334 and destroying all plants cultivated under the special permit.  
1335 The bond or certificate of deposit assignment or agreement must  
1336 include terms binding the instrument to the Commissioner of  
1337 Agriculture. Such certificate of deposit shall be presented with  
1338 an assignment of the permitholder's rights in the certificate in  
1339 favor of the Commissioner of Agriculture on a form prescribed by  
1340 the department and with a letter from the issuing institution  
1341 acknowledging that the assignment has been properly recorded on  
1342 the books of the issuing institution and will be honored by the  
1343 issuing institution. Such assignment is irrevocable while a  
1344 special permit is in effect and for an additional period of 6



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1345 months after termination of the special permit if operations to  
 1346 remove and destroy the permitted plants are not continuing and  
 1347 if the department's invoice remains unpaid by the permitholder  
 1348 under the issued immediate final order. If operations to remove  
 1349 and destroy the plants are pending, the assignment remains in  
 1350 effect until all plants are removed and destroyed and the  
 1351 department's invoice has been paid. The bond or certificate of  
 1352 deposit may be released by the assignee of the surety company or  
 1353 financial institution to the permitholder, or to the  
 1354 permitholder's successors, assignee, or heirs, if operations to  
 1355 remove and destroy the permitted plants are not pending and no  
 1356 invoice remains unpaid at the conclusion of 6 months after the  
 1357 last effective date of the special permit. The department may  
 1358 not accept a certificate of deposit that contains any provision  
 1359 that would give to any person any prior rights or claim on the  
 1360 proceeds or principal of such certificate of deposit. The  
 1361 department shall determine by rule whether an annual bond or  
 1362 certificate of deposit will be required. The amount of such bond  
 1363 or certificate of deposit shall be increased, upon order of the  
 1364 department, at any time if the department finds such increase to  
 1365 be warranted by the cultivating operations of the permitholder.  
 1366 In the same manner, the amount of such bond or certificate of  
 1367 deposit may be adjusted downward or removed ~~decreased~~ when a  
 1368 decrease in the cultivating operations of the permitholder  
 1369 occurs or when research or practical field knowledge and  
 1370 observations indicate a low risk of invasiveness by the  
 1371 nonnative species ~~warrants such decrease.~~ Factors that may be  
 1372 considered for change include multiple years or cycles of

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1373 successful large-scale contained cultivation; no observation of  
 1374 plant, algae, or blue-green algae escape from managed areas; or  
 1375 science-based evidence that established or approved adjusted  
 1376 cultivation practices provide a similar level of containment of  
 1377 the nonnative plant, algae, or blue-green algae. This paragraph  
 1378 applies to any bond or certificate of deposit, regardless of the  
 1379 anniversary date of its issuance, expiration, or renewal.

1380 (f) In order to carry out the purposes of this subsection,  
 1381 the department or its agents may require from any permit holder  
 1382 verified statements of the cultivated acreage subject to the  
 1383 special permit and may review the permit holder's business or  
 1384 cultivation records at her or his place of business during  
 1385 normal business hours in order to determine the acreage  
 1386 cultivated. The failure of a permit holder to furnish such  
 1387 statement, to make such records available, or to make and  
 1388 deliver a new or additional bond or certificate of deposit is  
 1389 cause for suspension of the special permit. If the department  
 1390 finds such failure to be willful, the special permit may be  
 1391 revoked.

1392 Section 14. Subsection (3) of section 20.121, Florida  
 1393 Statutes, is amended to read:

1394 20.121 Department of Financial Services.—There is created  
 1395 a Department of Financial Services.

1396 (3) FINANCIAL SERVICES COMMISSION.—Effective January 7,  
 1397 2003, there is created within the Department of Financial  
 1398 Services the Financial Services Commission, composed of the  
 1399 Governor, the Attorney General, the Chief Financial Officer, and  
 1400 the Commissioner of Agriculture, which shall for purposes of

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1401 | this section be referred to as the commission. Commission  
 1402 | members shall serve as agency head of the Financial Services  
 1403 | Commission. The commission shall be a separate budget entity and  
 1404 | shall be exempt from the provisions of s. 20.052. Commission  
 1405 | action shall be by majority vote consisting of at least three  
 1406 | affirmative votes. The commission shall not be subject to  
 1407 | control, supervision, or direction by the Department of  
 1408 | Financial Services in any manner, including purchasing,  
 1409 | transactions involving real or personal property, personnel, or  
 1410 | budgetary matters.

1411 |       (a) Structure.—The major structural unit of the commission  
 1412 | is the office. Each office shall be headed by a director. The  
 1413 | following offices are established:

1414 |       1. The Office of Insurance Regulation, which shall be  
 1415 | responsible for all activities concerning insurers and other  
 1416 | risk bearing entities, including licensing, rates, policy forms,  
 1417 | market conduct, claims, issuance of certificates of authority,  
 1418 | solvency, viatical settlements, premium financing, and  
 1419 | administrative supervision, as provided under the insurance code  
 1420 | or chapter 636. The head of the Office of Insurance Regulation  
 1421 | is the Director of the Office of Insurance Regulation, who may  
 1422 | also be known as the Commissioner of Insurance Regulation.

1423 |       2. The Office of Financial Regulation, which shall be  
 1424 | responsible for all activities of the Financial Services  
 1425 | Commission relating to the regulation of banks, credit unions,  
 1426 | other financial institutions, finance companies, and the  
 1427 | securities industry. The head of the office is the Director of  
 1428 | the Office of Financial Regulation, who may also be known as the

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1429 Commissioner of Financial Regulation. The Office of Financial  
1430 Regulation shall include a Bureau of Financial Investigations,  
1431 which shall function as a criminal justice agency for purposes  
1432 of ss. 943.045-943.08 and shall have a separate budget. The  
1433 bureau may conduct investigations within or outside this state  
1434 as the bureau deems necessary to aid in the enforcement of this  
1435 section. If, during an investigation, the office has reason to  
1436 believe that any criminal law of this state has or may have been  
1437 violated, the office shall refer any records tending to show  
1438 such violation to state or federal law enforcement or  
1439 prosecutorial agencies and shall provide investigative  
1440 assistance to those agencies as required.

1441 3. The Office of Public Counsel, the responsibilities of  
1442 which are set forth in chapter 350. The Public Counsel shall  
1443 perform his or her duties independently.

1444 (b) Organization.—The commission shall establish by rule  
1445 any additional organizational structure of the offices other  
1446 than the Office of Public Counsel. It is the intent of the  
1447 Legislature to provide the commission with the flexibility to  
1448 organize the offices, other than the Office of Public Counsel  
1449 which shall remain independent, in any manner they determine  
1450 appropriate to promote both efficiency and accountability.

1451 (c) Powers.—Commission members shall serve as the agency  
1452 head for purposes of rulemaking under ss. 120.536-120.565 by the  
1453 commission and all subunits of the commission. Each director is  
1454 agency head for purposes of final agency action under chapter  
1455 120 for all areas within the regulatory authority delegated to  
1456 the director's office.

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1457 (d) Appointment and qualifications of directors.—The  
1458 Public Counsel shall be appointed pursuant to s. 350.061 and is  
1459 subject to the qualifications provided therein. The commission  
1460 shall appoint or remove the each director of the Office of  
1461 Insurance Regulation and the director of the Office of Financial  
1462 Regulation by a majority vote consisting of at least three  
1463 affirmative votes, with both the Governor and the Chief  
1464 Financial Officer on the prevailing side. The minimum  
1465 qualifications of the directors are as follows:

1466 1. Prior to appointment as director, the Director of the  
1467 Office of Insurance Regulation must have had, within the  
1468 previous 10 years, at least 5 years of responsible private  
1469 sector experience working full time in areas within the scope of  
1470 the subject matter jurisdiction of the Office of Insurance  
1471 Regulation or at least 5 years of experience as a senior  
1472 examiner or other senior employee of a state or federal agency  
1473 having regulatory responsibility over insurers or insurance  
1474 agencies.

1475 2. Prior to appointment as director, the Director of the  
1476 Office of Financial Regulation must have had, within the  
1477 previous 10 years, at least 5 years of responsible private  
1478 sector experience working full time in areas within the subject  
1479 matter jurisdiction of the Office of Financial Regulation or at  
1480 least 5 years of experience as a senior examiner or other senior  
1481 employee of a state or federal agency having regulatory  
1482 responsibility over financial institutions, finance companies,  
1483 or securities companies.

1484 (e) Administrative support.—The offices shall have a

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1485 sufficient number of attorneys, examiners, investigators, other  
 1486 professional personnel to carry out their responsibilities and  
 1487 administrative personnel as determined annually in the  
 1488 appropriations process. The Department of Financial Services  
 1489 shall provide administrative and information systems support to  
 1490 the offices.

1491 (f) Records retention schedules.—The commission and the  
 1492 offices may destroy general correspondence files and also any  
 1493 other records that they deem no longer necessary to preserve in  
 1494 accordance with retention schedules and destruction notices  
 1495 established under rules of the Division of Library and  
 1496 Information Services, records and information management  
 1497 program, of the Department of State. Such schedules and notices  
 1498 relating to financial records of the commission and offices  
 1499 shall be subject to the approval of the Auditor General.

1500 (g) Records storage.—The commission and offices may  
 1501 photograph, microphotograph, or reproduce on film such documents  
 1502 and records as they may select, in such manner that each page  
 1503 will be exposed in exact conformity with the original. After  
 1504 reproduction and filing, original documents and records may be  
 1505 destroyed in accordance with the provisions of paragraph (f).

1506 Section 15. Subsection (1) of section 350.061, Florida  
 1507 Statutes, is amended to read:

1508 350.061 Public Counsel; appointment; oath; restrictions on  
 1509 Public Counsel and his or her employees.—

1510 (1) (a) The Financial Services Commission ~~committee~~  
 1511 ~~designated by joint rule of the Legislature or by agreement~~  
 1512 ~~between the President of the Senate and the Speaker of the House~~

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1513 ~~of Representatives as the Committee on Public Counsel Oversight~~  
1514 shall appoint a Public Counsel by majority vote, consisting of  
1515 at least three affirmative votes, to represent the general  
1516 public of Florida before the Florida Public Service Commission.  
1517 Appointment of the Public Counsel shall be subject to  
1518 confirmation by the Senate. Until such time as the Senate  
1519 confirms the appointment, the appointee shall perform the  
1520 functions of the office as provided by law.

1521 (b) The Public Counsel shall be an attorney admitted to  
1522 practice before the Florida Supreme Court and shall serve at the  
1523 pleasure of the Financial Services Commission ~~Committee on~~  
1524 ~~Public Counsel Oversight,~~ subject to biennial reconfirmation by  
1525 ~~the committee.~~ The Public Counsel shall perform his or her  
1526 duties independently.

1527 (c) Vacancies in the office shall be filled in the same  
1528 manner as the original appointment. The Financial Services  
1529 Commission may remove the Public Counsel by majority vote,  
1530 consisting of at least three affirmative votes. In the event of  
1531 a vacancy, the Financial Services Commission may appoint an  
1532 interim Public Counsel to serve until a new Public Counsel is  
1533 appointed.

1534 Section 16. Section 350.0613, Florida Statutes, is amended  
1535 to read:

1536 350.0613 Public Counsel; employees; budget; receipt of  
1537 pleadings.—

1538 (1) The Public Counsel is authorized to employ clerical,  
1539 technical, and professional personnel that the Public Counsel  
1540 deems to be reasonably necessary for the performance of the

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1541 duties of the office. The Public Counsel shall set the  
1542 compensation for all personnel of the office and shall be  
1543 responsible for the supervision and direction of all such  
1544 personnel. The Public Counsel may retain ~~The committee may~~  
1545 ~~authorize the Public Counsel to employ clerical and technical~~  
1546 ~~assistants whose qualifications, duties, and responsibilities~~  
1547 ~~the committee shall from time to time prescribe. The committee~~  
1548 ~~may from time to time authorize retention of~~ the services of  
1549 additional attorneys or experts to the extent that the best  
1550 interests of the people of the state will be better served  
1551 thereby, including the retention of expert witnesses and other  
1552 technical personnel for participation in contested proceedings  
1553 before the commission.

1554 (2) The Public Counsel is responsible for preparing the  
1555 budget for the office and shall submit the budget to the  
1556 Financial Services Commission.

1557 (3) The Public Service Commission shall furnish the Public  
1558 Counsel with copies of the initial pleadings in all proceedings  
1559 before the commission, and if the Public Counsel intervenes as a  
1560 party in any proceeding he or she shall be served with copies of  
1561 all subsequent pleadings, exhibits, and prepared testimony, if  
1562 used. Upon filing notice of intervention, the Public Counsel  
1563 shall serve all interested parties with copies of such notice  
1564 and all of his or her subsequent pleadings and exhibits.

1565 Section 17. Section 350.0614, Florida Statutes, is amended  
1566 to read:

1567 350.0614 Public Counsel; compensation and expenses.—

1568 ~~(1)~~ The salary of the Public Counsel shall be set by the



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1569 Financial Services Commission. The salaries and expenses of the  
 1570 Public Counsel and his or her employees shall be allocated by  
 1571 the Financial Services Commission ~~committee~~ only from moneys  
 1572 appropriated to the Public Counsel by the Legislature.

1573 ~~(2) The Legislature declares and determines that the~~  
 1574 ~~Public Counsel is under the legislative branch of government~~  
 1575 ~~within the intention of the legislation as expressed in chapter~~  
 1576 ~~216, and no power shall be in the Executive Office of the~~  
 1577 ~~Governor or its successor to release or withhold funds~~  
 1578 ~~appropriated to it, but the same shall be available for~~  
 1579 ~~expenditure as provided by law.~~

1580 ~~(3) Neither the Executive Office of the Governor nor the~~  
 1581 ~~Department of Management Services or its successor shall have~~  
 1582 ~~power to determine the number, or fix the compensation, of the~~  
 1583 ~~employees of the Public Counsel or to exercise any manner of~~  
 1584 ~~control over them.~~

1585 Section 18. (1) All powers, duties, functions, records,  
 1586 offices, personnel, property, and pending issues and existing  
 1587 contracts, administrative authority, administrative rules, and  
 1588 unexpended balances of appropriations, allocations, and other  
 1589 funds relating to the Office of Public Counsel pursuant to s.  
 1590 350.061, Florida Statutes, are transferred by a type two  
 1591 transfer, as defined in s. 20.06(2), Florida Statutes, from the  
 1592 Legislature to the Financial Services Commission. The Office of  
 1593 Public Counsel shall be funded from the General Revenue Fund.

1594 (2) Notwithstanding ss. 216.292 and 216.351, Florida  
 1595 Statutes, upon approval by the Legislative Budget Commission,  
 1596 the Executive Office of the Governor shall transfer funds and

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1597 positions between the Legislature and the Financial Services  
 1598 Commission to implement this act.

1599 Section 19. The Department of Agriculture and Consumer  
 1600 Services shall conduct a comprehensive statewide forest  
 1601 inventory analysis and study, using a geographic information  
 1602 system, to identify where available biomass is located,  
 1603 determine the available biomass resources, and ensure forest  
 1604 sustainability within the state. The department shall submit the  
 1605 results of the study to the President of the Senate, the Speaker  
 1606 of the House of Representatives, and the Executive Office of the  
 1607 Governor by July 1, 2013.

1608 Section 20. The Department of Agriculture and Consumer  
 1609 Services, in consultation with the Public Service Commission,  
 1610 the Florida Building Commission, and the Florida Energy Systems  
 1611 Consortium, shall develop a clearinghouse of information  
 1612 regarding cost savings associated with various energy efficiency  
 1613 and conservation measures. The department shall post the  
 1614 information on its website by July 1, 2013.

1615 Section 21. The Public Service Commission is directed to  
 1616 conduct a study of the potential effects of public charging  
 1617 stations and privately owned electric vehicle charging on both  
 1618 energy consumption and the impact on the electric grid in the  
 1619 state. The Public Service Commission shall also investigate the  
 1620 feasibility of using off-grid solar photovoltaic power as a  
 1621 source of electricity for the electric vehicle charging  
 1622 stations. The commission shall submit the results of the study  
 1623 to the President of the Senate, the Speaker of the House of  
 1624 Representatives, and the Executive Office of the Governor by

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1625 December 31, 2012.

1626       Section 22. Subject to a specific appropriation, the  
1627 Public Service Commission, in consultation with the Department  
1628 of Agriculture and Consumer Services, shall contract for an  
1629 independent evaluation of the effectiveness of the Florida  
1630 Energy Efficiency and Conservation Act in achieving the  
1631 statutory objectives of reducing and controlling the growth  
1632 rates of electric consumption and reducing the growth rates of  
1633 weather-sensitive peak demand, increasing the overall efficiency  
1634 and cost-effectiveness of electricity and natural gas production  
1635 and use, encouraging further development of demand-side  
1636 renewable energy systems; and conserving expensive resources,  
1637 particularly petroleum fuels.

1638       (1) The evaluation shall include an assessment of:

1639       (a) The effectiveness of the act in accomplishing  
1640 statutory objectives in a cost-effective manner, taking into  
1641 account short-term and long-term costs and benefits;

1642       (b) The models and methods used to establish conservation  
1643 goals and programs to meet those goals;

1644       (c) The strengths and weaknesses of the act relative to  
1645 alternative methods available to achieve statutory objectives;

1646       (d) The coordination between the goal-setting process in  
1647 s. 366.82 and the determination of need process in s. 403.519,  
1648 including the manner in which supply-side conservation and  
1649 efficiency measures are addressed; and

1650       (e) The potential for time-based rates and advanced  
1651 metering technology, or other mechanisms, to allow customers to  
1652 manage their energy consumption and allow for peak load shaving.

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1653           (2) The findings and recommendations of the evaluation  
1654 shall be submitted to the President of the Senate, the Speaker  
1655 of the House of Representatives, and the Executive Office of the  
1656 Governor by January 31, 2013.

1657           Section 23. This act shall take effect July 1, 2012.