

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

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 requirements  
37 relating to the proration of such tax credits under  
38 certain circumstances; providing for the use and  
39 transfer of the tax credit; limiting the amount of tax  
40 credits that may be granted to all taxpayers during a  
41 specified period; providing rulemaking authority to  
42 the Department of Revenue; providing for expiration of  
43 the tax credit; amending s. 255.257, F.S.; directing  
44 the Department of Management Services in coordination  
45 with the Department of Agriculture and Consumer  
46 Services to further develop the state energy  
47 management plan; amending s. 288.106, F.S.; clarifying  
48 the definition of "target industry business" for  
49 purposes of the tax refund program for qualified  
50 target industry businesses; amending s. 20.60, F.S.;  
51 requiring the Department of Economic Opportunity to  
52 analyze and evaluate economic benefits for certain  
53 renewable energy projects; amending s. 366.92, F.S.;  
54 providing and revising definitions; authorizing a  
55 utility to petition the Public Service Commission to  
56 determine that a proposed renewable energy project is

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

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85 | acres; providing exceptions; providing for exemption  
86 | from special permitting requirements by rule; revising  
87 | certain bonding requirements; amending s. 20.121,  
88 | F.S.; establishing the Office of Public Counsel within  
89 | the Financial Services Commission; amending s.  
90 | 350.061, F.S.; providing for appointment and removal  
91 | of the Public Counsel by the Financial Services  
92 | Commission; amending s. 350.0613, F.S.; establishing  
93 | the authority of the Public Counsel to employ  
94 | personnel, set compensation, retain experts, and  
95 | prepare a budget; amending s. 350.0614, F.S.;

96 | authorizing the Financial Services Commission to set  
97 | the salary of the Public Counsel and allocate salaries  
98 | and expenses for the office; providing for a type two  
99 | transfer of the Office of Public Counsel from the  
100 | Legislature to the Financial Services Commission;  
101 | requiring the Department of Agriculture and Consumer  
102 | Services to conduct a statewide forest inventory  
103 | analysis; requiring the Department of Agriculture and  
104 | Consumer Services, in consultation with other state  
105 | agencies, to develop a clearinghouse of information  
106 | regarding cost savings associated with energy  
107 | efficiency and conservation measures; requiring such  
108 | information to be posted on its website; directing the  
109 | Public Service Commission to conduct a study on the  
110 | potential effects of electric vehicle charging  
111 | stations on both energy consumption and the electric  
112 | grid; requiring the Public Service Commission, in

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113 |       consultation with the Department of Agriculture and  
114 |       Consumer Services, to contract for an independent  
115 |       evaluation of the effectiveness of the Florida Energy  
116 |       Efficiency and Conservation Act; providing an  
117 |       effective date.

118 |

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

120 |

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

123 |       186.801 Ten-year site plans.—

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

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- 141 (a) The need, including the need as determined by the
- 142 commission, for electrical power in the area to be served.
- 143 (b) The effect on fuel diversity within the state.
- 144 (c) The anticipated environmental impact of each proposed
- 145 electrical power plant site.
- 146 (d) Possible alternatives to the proposed plan.
- 147 (e) The views of appropriate local, state, and federal
- 148 agencies, including the views of the appropriate water
- 149 management district as to the availability of water and its
- 150 recommendation as to the use by the proposed plant of salt water
- 151 or fresh water for cooling purposes.
- 152 (f) The extent to which the plan is consistent with the
- 153 state comprehensive plan.
- 154 (g) The plan with respect to the information of the state
- 155 on energy availability and consumption.
- 156 (h) The amount of renewable energy resources the utility
- 157 produces or purchases.
- 158 (i) The amount of renewable energy resources the utility
- 159 plans to produce or purchase over the 10-year planning horizon
- 160 and the means by which the production or purchases will be
- 161 achieved.
- 162 (j) The utility's indication of how the production and
- 163 purchase of renewable energy resources affect the utility's
- 164 present and future capacity and energy needs.

165 Section 2. Paragraph (d) of subsection (2) of section  
 166 212.055, Florida Statutes, is amended to read:

167 212.055 Discretionary sales surtaxes; legislative intent;  
 168 authorization and use of proceeds.—It is the legislative intent

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

180 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

181 (d) The proceeds of the surtax authorized by this  
182 subsection and any accrued interest shall be expended by the  
183 school district, within the county and municipalities within the  
184 county, or, in the case of a negotiated joint county agreement,  
185 within another county, to finance, plan, and construct  
186 infrastructure; to acquire land for public recreation,  
187 conservation, or protection of natural resources; to provide  
188 loans, grants, or rebates to residential property owners, with  
189 preference given to low-income elders, Florida veterans of the  
190 Armed Forces of the United States, and disabled adults, who make  
191 energy efficiency improvements to their residential property, if  
192 a local government ordinance authorizing such use is approved by  
193 referendum; or to finance the closure of county-owned or  
194 municipally owned solid waste landfills that have been closed or  
195 are required to be closed by order of the Department of  
196 Environmental Protection. Any use of the proceeds or interest

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197 | for purposes of landfill closure before July 1, 1993, is  
198 | ratified. The proceeds and any interest may not be used for the  
199 | operational expenses of infrastructure, except that a county  
200 | that has a population of fewer than 75,000 and that is required  
201 | to close a landfill may use the proceeds or interest for long-  
202 | term maintenance costs associated with landfill closure.  
203 | Counties, as defined in s. 125.011, and charter counties may, in  
204 | addition, use the proceeds or interest to retire or service  
205 | indebtedness incurred for bonds issued before July 1, 1987, for  
206 | infrastructure purposes, and for bonds subsequently issued to  
207 | refund such bonds. Any use of the proceeds or interest for  
208 | purposes of retiring or servicing indebtedness incurred for  
209 | refunding bonds before July 1, 1999, is ratified.

210 |       1. For the purposes of this paragraph, the term  
211 | "infrastructure" means:

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

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

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



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

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

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

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

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

278        212.08 Sales, rental, use, consumption, distribution, and  
 279 storage tax; specified exemptions.—The sale at retail, the  
 280 rental, the use, the consumption, the distribution, and the

281 storage to be used or consumed in this state of the following  
 282 are hereby specifically exempt from the tax imposed by this  
 283 chapter.

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

302 (hhh) Equipment, machinery, and other materials for  
 303 renewable energy technologies.—

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

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

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309 of the Department of Agriculture and Consumer Services.

310 "Biodiesel" may refer to biodiesel blends designated BXX, where  
311 XX represents the volume percentage of biodiesel fuel in the  
312 blend.

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

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

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

335 3. The Department of Agriculture and Consumer Services  
336 shall provide to the department a list of items eligible for the

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337 exemption provided in this paragraph.

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

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

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

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

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

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

364 c. Within 30 days after receipt of an application, the

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

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

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

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

391 g. The Department of Agriculture and Consumer Services  
 392 shall be responsible for ensuring that the total amount of the

393 exemptions authorized do not exceed the limits specified in  
 394 subparagraph 2.

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

404 6. This paragraph expires July 1, 2016.

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

407 220.192 Renewable energy technologies investment tax  
 408 credit.—

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

410 (a) "Biodiesel" means biodiesel as defined in s.  
 411 212.08(7)(hhh) former s. 212.08(7)(ccc).

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

416 (c) "Eligible costs" means—

417 ~~1. Seventy five percent of all capital costs, operation~~  
 418 ~~and maintenance costs, and research and development costs~~  
 419 ~~incurred between July 1, 2006, and June 30, 2010, up to a limit~~  
 420 ~~of \$3 million per state fiscal year for all taxpayers, in~~

421 ~~connection with an investment in hydrogen-powered vehicles and~~  
 422 ~~hydrogen vehicle fueling stations in the state, including, but~~  
 423 ~~not limited to, the costs of constructing, installing, and~~  
 424 ~~equipping such technologies in the state.~~

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

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

447 (d) "Ethanol" means ethanol as defined in s.  
 448 212.08(7)(hhh) ~~former s. 212.08(7)(ccc).~~



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449           (e) "Renewable fuel" means a fuel produced from biomass  
450 that is used to replace or reduce the quantity of fossil fuel  
451 present in motor fuel or diesel fuel. "Biomass" means biomass as  
452 defined in s. 366.91, "motor fuel" means motor fuel as defined  
453 in s. 206.01, and "diesel fuel" means diesel fuel as defined in  
454 s. 206.86.

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

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

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

476           (4) TAXPAYER APPLICATION PROCESS.—To claim a credit under

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

498 | (6) TRANSFERABILITY OF CREDIT.—

499 | (a) For tax years beginning on or after January 1, 2014  
500 | ~~2009~~, any corporation or subsequent transferee allowed a tax  
501 | credit under this section may transfer the credit, in whole or  
502 | in part, to any taxpayer by written agreement without  
503 | transferring any ownership interest in the property generating  
504 | the credit or any interest in the entity owning such property.

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505 The transferee is entitled to apply the credits against the tax  
506 with the same effect as if the transferee had incurred the  
507 eligible costs.

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

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

532 (7) RULES.—The Department of Revenue and the Department of

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533 Agriculture and Consumer Services shall have the authority to  
 534 adopt rules pursuant to ss. 120.536(1) and 120.54 to administer  
 535 this section, including rules relating to:

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

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

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

549 Section 5. Section 220.193, Florida Statutes, is amended  
 550 to read:

551 220.193 Florida renewable energy production credit.—

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

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

556 (a) "Commission" means ~~shall mean~~ the Public Service  
 557 Commission.

558 (b) "Department" means ~~shall mean~~ the Department of  
 559 Revenue.

560 (c) "Expanded facility" means ~~shall mean~~ a Florida

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561 renewable energy facility that increases its electrical  
562 production and sale by more than 5 percent above the facility's  
563 electrical production and sale during the 2011 ~~2005~~ calendar  
564 year.

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

568 (e) "New facility" means ~~shall mean~~ a Florida renewable  
569 energy facility that is operationally placed in service after  
570 May 1, 2006. "New facility" includes a Florida renewable energy  
571 facility that has had an expansion operationally placed in  
572 service after May 1, 2006, and whose cost exceeded 50 percent of  
573 the assessed value of the facility immediately before the  
574 expansion.

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

578 (g) "Taxpayer" includes a general partnership, limited  
579 partnership, limited liability company, trust, or other  
580 artificial entity in which a corporation, as defined in s.  
581 220.03(1)(e), owns an interest and is taxed as a partnership or  
582 is disregarded as a separate entity from the corporation under  
583 this chapter.

584 (3) An annual credit against the tax imposed by this  
585 section shall be allowed to a taxpayer, based on the taxpayer's  
586 production and sale of electricity from a new or expanded  
587 Florida renewable energy facility. For a new facility, the  
588 credit shall be based on the taxpayer's sale of the facility's

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589 entire electrical production. For an expanded facility, the  
590 credit shall be based on the increases in the facility's  
591 electrical production that are achieved after May 1, 2012 ~~2006~~.

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

595 (b) The credit may be claimed for electricity produced and  
596 sold on or after January 1, 2013 ~~2007~~. Beginning in 2014 ~~2008~~  
597 and continuing until 2017 ~~2011~~, each taxpayer claiming a credit  
598 under this section must first apply to the department by  
599 February 1 of each year for an allocation of available credit.  
600 The department, in consultation with the commission, shall  
601 develop an application form. The application form shall, at a  
602 minimum, require a sworn affidavit from each taxpayer certifying  
603 the increase in production and sales that form the basis of the  
604 application and certifying that all information contained in the  
605 application is true and correct.

606 (c) If the amount of credits applied for each year exceeds  
607 \$5 million, the department shall award to each applicant a  
608 prorated amount based on each applicant's increased production  
609 and sales and the increased production and sales of all  
610 applicants. However, priority in the proration shall be given to  
611 those applicants who place a new facility in operation after May  
612 1, 2012, claiming a credit of \$100,000 or less, then all other  
613 applicants claiming a credit of \$50,000 or less and, subject to  
614 the availability of funds, each applicant shall receive the  
615 entire amount claimed with all remaining claims for the tax year  
616 being subject to proration, if necessary.

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617 (d) If the credit granted pursuant to this section is not  
618 fully used in one year because of insufficient tax liability on  
619 the part of the taxpayer, the unused amount may be carried  
620 forward for a period not to exceed 5 years. The carryover credit  
621 may be used in a subsequent year when the tax imposed by this  
622 chapter for such year exceeds the credit for such year, after  
623 applying the other credits and unused credit carryovers in the  
624 order provided in s. 220.02(8).

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

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

633 2. The entity or its surviving or acquiring entity as  
634 described in subparagraph 1. may transfer any unused credit in  
635 whole or in units of no less than 25 percent of the remaining  
636 credit. The entity acquiring such credit may use it in the same  
637 manner and with the same limitations under this section. Such  
638 transferred credits may not be transferred again although they  
639 may succeed to a surviving or acquiring entity subject to the  
640 same conditions and limitations as described in this section.

641 3. In the event the credit provided for under this section  
642 is reduced as a result of an examination or audit by the  
643 department, such tax deficiency shall be recovered from the  
644 first entity or the surviving or acquiring entity to have

645 | claimed such credit up to the amount of credit taken. Any  
646 | subsequent deficiencies shall be assessed against any entity  
647 | acquiring and claiming such credit, or in the case of multiple  
648 | succeeding entities in the order of credit succession.

649 | (g) Notwithstanding any other provision of this section,  
650 | credits for the production and sale of electricity from a new or  
651 | expanded nonutility generator Florida renewable energy facility  
652 | may be earned between January 1, 2013 ~~2007~~, and June 30, 2016  
653 | ~~2010~~. The combined total amount of tax credits which may be  
654 | granted for all taxpayers under this section is limited to \$5  
655 | million per state fiscal year.

656 | (h) A taxpayer claiming a credit under this section shall  
657 | be required to add back to net income that portion of its  
658 | business deductions claimed on its federal return paid or  
659 | incurred for the taxable year which is equal to the amount of  
660 | the credit allowable for the taxable year under this section.

661 | (i) A taxpayer claiming credit under this section may not  
662 | claim a credit under s. 220.192. A taxpayer claiming credit  
663 | under s. 220.192 may not claim a credit under this section.

664 | (j) When an entity treated as a partnership or a  
665 | disregarded entity under this chapter produces and sells  
666 | electricity from a new or expanded renewable energy facility,  
667 | the credit earned by such entity shall pass through in the same  
668 | manner as items of income and expense pass through for federal  
669 | income tax purposes. When an entity applies for the credit and  
670 | the entity has received the credit by a pass-through, the  
671 | application must identify the taxpayer that passed the credit  
672 | through, all taxpayers that received the credit, and the



673 percentage of the credit that passes through to each recipient  
 674 and must provide other information that the department requires.

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

678 (4) The department may adopt rules to implement and  
 679 administer this section, including rules prescribing forms, the  
 680 documentation needed to substantiate a claim for the tax credit,  
 681 and the specific procedures and guidelines for claiming the  
 682 credit.

683 (5) This section shall take effect upon becoming law and  
 684 shall apply to tax years beginning on and after January 1, 2013  
 685 ~~2007~~.

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

688 255.257 Energy management; buildings occupied by state  
 689 agencies.—

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

- 695 (a) Data-gathering requirements;
- 696 (b) Building energy audit procedures;
- 697 (c) Uniform data analysis and reporting procedures;
- 698 (d) Employee energy education program measures;
- 699 (e) Energy consumption reduction techniques;
- 700 (f) Training program for state agency energy management

701 coordinators; and

702 (g) Guidelines for building managers.

703

704 The plan shall include a description of actions that state  
 705 agencies shall take to reduce consumption of electricity and  
 706 nonrenewable energy sources used for space heating and cooling,  
 707 ventilation, lighting, water heating, and transportation.

708 Section 7. Paragraph (q) of subsection (2) of section  
 709 288.106, Florida Statutes, is amended to read:

710 288.106 Tax refund program for qualified target industry  
 711 businesses.—

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

713 (q) "Target industry business" means a corporate  
 714 headquarters business or any business that is engaged in one of  
 715 the target industries identified pursuant to the following  
 716 criteria developed by the department in consultation with  
 717 Enterprise Florida, Inc.:

718 1. Future growth.—Industry forecasts should indicate  
 719 strong expectation for future growth in both employment and  
 720 output, according to the most recent available data. Special  
 721 consideration should be given to businesses that export goods  
 722 to, or provide services in, international markets and businesses  
 723 that replace domestic and international imports of goods or  
 724 services.

725 2. Stability.—The industry should not be subject to  
 726 periodic layoffs, whether due to seasonality or sensitivity to  
 727 volatile economic variables such as weather. The industry should  
 728 also be relatively resistant to recession, so that the demand

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729 for products of this industry is not typically subject to  
730 decline during an economic downturn.

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

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

737 5. Industrial base diversification and strengthening.—The  
738 industry should contribute toward expanding or diversifying the  
739 state's or area's economic base, as indicated by analysis of  
740 employment and output shares compared to national and regional  
741 trends. Special consideration should be given to industries that  
742 strengthen regional economies by adding value to basic products  
743 or building regional industrial clusters as indicated by  
744 industry analysis. Special consideration should also be given to  
745 the development of strong industrial clusters that include  
746 defense and homeland security businesses.

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

752

753 The term does not include any business engaged in retail  
754 industry activities; any electrical utility company as defined  
755 in s. 366.02(2); any phosphate or other solid minerals  
756 severance, mining, or processing operation; any oil or gas

757 | exploration or production operation; or any business subject to  
 758 | regulation by the Division of Hotels and Restaurants of the  
 759 | Department of Business and Professional Regulation. Any business  
 760 | within NAICS code 5611 or 5614, office administrative services  
 761 | and business support services, respectively, may be considered a  
 762 | target industry business only after the local governing body and  
 763 | Enterprise Florida, Inc., make a determination that the  
 764 | community where the business may locate has conditions affecting  
 765 | the fiscal and economic viability of the local community or  
 766 | area, including but not limited to, factors such as low per  
 767 | capita income, high unemployment, high underemployment, and a  
 768 | lack of year-round stable employment opportunities, and such  
 769 | conditions may be improved by the location of such a business to  
 770 | the community. By January 1 of every 3rd year, beginning January  
 771 | 1, 2011, the department, in consultation with Enterprise  
 772 | Florida, Inc., economic development organizations, the State  
 773 | University System, local governments, employee and employer  
 774 | organizations, market analysts, and economists, shall review  
 775 | and, as appropriate, revise the list of such target industries  
 776 | and submit the list to the Governor, the President of the  
 777 | Senate, and the Speaker of the House of Representatives.

778 | Section 8. Paragraph (a) of subsection (5) of section  
 779 | 20.60, Florida Statutes, is amended to read:

780 | 20.60 Department of Economic Opportunity; creation; powers  
 781 | and duties.—

782 | (5) The divisions within the department have specific  
 783 | responsibilities to achieve the duties, responsibilities, and  
 784 | goals of the department. Specifically:

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

786 1. Analyze and evaluate business prospects identified by  
 787 the Governor, the executive director of the department, and  
 788 Enterprise Florida, Inc.

789 2. Independently analyze and evaluate the regional and  
 790 statewide economic benefits associated with a renewable energy  
 791 project submitted to the Public Service Commission for a public  
 792 interest determination and provided to the department for review  
 793 pursuant to s. 366.92.

794 ~~3.2.~~ Administer certain tax refund, tax credit, and grant  
 795 programs created in law. Notwithstanding any other provision of  
 796 law, the department may expend interest earned from the  
 797 investment of program funds deposited in the Grants and  
 798 Donations Trust Fund to contract for the administration of those  
 799 programs, or portions of the programs, assigned to the  
 800 department by law, by the appropriations process, or by the  
 801 Governor. Such expenditures shall be subject to review under  
 802 chapter 216.

803 ~~4.3.~~ Develop measurement protocols for the state incentive  
 804 programs and for the contracted entities which will be used to  
 805 determine their performance and competitive value to the state.  
 806 Performance measures, benchmarks, and sanctions must be  
 807 developed in consultation with the legislative appropriations  
 808 committees and the appropriate substantive committees, and are  
 809 subject to the review and approval process provided in s.  
 810 216.177. The approved performance measures, standards, and  
 811 sanctions shall be included and made a part of the strategic  
 812 plan for contracts entered into for delivery of programs

813 authorized by this section.

814 ~~5.4.~~ Develop a 5-year statewide strategic plan. The  
815 strategic plan must include, but need not be limited to:

816 a. Strategies for the promotion of business formation,  
817 expansion, recruitment, and retention through aggressive  
818 marketing, international development, and export assistance,  
819 which lead to more and better jobs and higher wages for all  
820 geographic regions, disadvantaged communities, and populations  
821 of the state, including rural areas, minority businesses, and  
822 urban core areas.

823 b. The development of realistic policies and programs to  
824 further the economic diversity of the state, its regions, and  
825 their associated industrial clusters.

826 c. Specific provisions for the stimulation of economic  
827 development and job creation in rural areas and midsize cities  
828 and counties of the state, including strategies for rural  
829 marketing and the development of infrastructure in rural areas.

830 d. Provisions for the promotion of the successful long-  
831 term economic development of the state with increased emphasis  
832 in market research and information.

833 e. Plans for the generation of foreign investment in the  
834 state which create jobs paying above-average wages and which  
835 result in reverse investment in the state, including programs  
836 that establish viable overseas markets, assist in meeting the  
837 financing requirements of export-ready firms, broaden  
838 opportunities for international joint venture relationships, use  
839 the resources of academic and other institutions, coordinate  
840 trade assistance and facilitation services, and facilitate

841 availability of and access to education and training programs  
 842 that assure requisite skills and competencies necessary to  
 843 compete successfully in the global marketplace.

844 f. The identification of business sectors that are of  
 845 current or future importance to the state's economy and to the  
 846 state's global business image, and development of specific  
 847 strategies to promote the development of such sectors.

848 g. Strategies for talent development necessary in the  
 849 state to encourage economic development growth, taking into  
 850 account factors such as the state's talent supply chain,  
 851 education and training opportunities, and available workforce.

852 ~~6.5.~~ Update the strategic plan every 5 years.

853 ~~7.6.~~ Involve Enterprise Florida, Inc.; Workforce Florida,  
 854 Inc.; local governments; the general public; local and regional  
 855 economic development organizations; other local, state, and  
 856 federal economic, international, and workforce development  
 857 entities; the business community; and educational institutions  
 858 to assist with the strategic plan.

859 Section 9. Section 366.92, Florida Statutes, is amended to  
 860 read:

861 366.92 Florida renewable energy policy.—

862 (1) It is the intent of the Legislature to promote the  
 863 development of renewable energy; protect the economic viability  
 864 of Florida's existing renewable energy facilities; diversify the  
 865 types of fuel used to generate electricity in Florida; lessen  
 866 Florida's dependence on natural gas and fuel oil for the  
 867 production of electricity; minimize the volatility of fuel  
 868 costs; encourage investment within the state; improve

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869 environmental conditions; and, at the same time, minimize the  
870 costs of power supply to electric utilities and their customers.

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

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

875 ~~(b) "Provider" means a "utility" as defined in s.~~  
876 ~~366.8255(1)(a).~~

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

879 (c) "Renewable energy project" means the construction of a  
880 new renewable energy generating facility, the conversion of an  
881 existing fossil fuel generating facility to a renewable energy  
882 generating facility, or a contract for the purchase of renewable  
883 energy from a nonutility generating facility.

884 (d) "Utility" means an electric utility as defined in s.  
885 366.8255 ~~"Renewable energy credit" or "REC" means a product that~~  
886 ~~represents the unbundled, separable, renewable attribute of~~  
887 ~~renewable energy produced in Florida and is equivalent to 1~~  
888 ~~megawatt-hour of electricity generated by a source of renewable~~  
889 ~~energy located in Florida.~~

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

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



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897 Notwithstanding s. 366.91(3) and (4), the commission shall  
898 determine that a proposed project is in the public interest if  
899 the commission finds that the project provides an overall net  
900 benefit to the state. A public interest determination is  
901 available only for those renewable energy projects that are  
902 exempt from the requirement to obtain a determination of need  
903 pursuant to s. 403.519.

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

908 1. The estimated cost and estimated rate impacts of the  
909 project;

910 2. The impact of the project on the reliability and  
911 integrity of the utility's system and the statewide electric  
912 grid;

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

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

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

919 6. The extent to which the project reduces the utility's  
920 regulatory costs associated with adverse environmental impacts;  
921 and

922 7. The regional and statewide economic benefits associated  
923 with the project, including independent analysis of these  
924 benefits by the department.

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925        (c) The commission shall approve for recovery through the  
926 environmental cost recovery clause all reasonable and prudent  
927 costs incurred by a utility for a renewable energy project that  
928 the commission determines to be in the public interest. For a  
929 new renewable energy generating facility, recoverable costs  
930 include, but are not limited to, the siting, licensing,  
931 engineering, design, permitting, construction, operation, and  
932 maintenance of such facilities, including any applicable taxes  
933 and a return based on the utility's last authorized rate of  
934 return. For conversion of an existing fossil fuel generating  
935 facility to a renewable energy generating facility, recoverable  
936 costs include reasonable and prudent conversion costs, including  
937 the costs of retirement of the fossil fuel plant that exceed any  
938 amounts accrued by the provider for such purposes through rates  
939 previously set by the commission. For purchase of renewable  
940 energy from a nonutility generating facility, recoverable costs  
941 include the reasonable and prudent costs associated with the  
942 purchase.

943        ~~(3) The commission shall adopt rules for a renewable~~  
944 ~~portfolio standard requiring each provider to supply renewable~~  
945 ~~energy to its customers directly, by procuring, or through~~  
946 ~~renewable energy credits. In developing the RPS rule, the~~  
947 ~~commission shall consult the Department of Environmental~~  
948 ~~Protection and the Department of Agriculture and Consumer~~  
949 ~~Services. The rule shall not be implemented until ratified by~~  
950 ~~the Legislature. The commission shall present a draft rule for~~  
951 ~~legislative consideration by February 1, 2009.~~

952        ~~(a) In developing the rule, the commission shall evaluate~~

953 ~~the current and forecasted levelized cost in cents per kilowatt~~  
 954 ~~hour through 2020 and current and forecasted installed capacity~~  
 955 ~~in kilowatts for each renewable energy generation method through~~  
 956 ~~2020.~~

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

958 ~~1. Shall include methods of managing the cost of~~  
 959 ~~compliance with the renewable portfolio standard, whether~~  
 960 ~~through direct supply or procurement of renewable power or~~  
 961 ~~through the purchase of renewable energy credits. The commission~~  
 962 ~~shall have rulemaking authority for providing annual cost~~  
 963 ~~recovery and incentive-based adjustments to authorized rates of~~  
 964 ~~return on common equity to providers to incentivize renewable~~  
 965 ~~energy. Notwithstanding s. 366.91(3) and (4), upon the~~  
 966 ~~ratification of the rules developed pursuant to this subsection,~~  
 967 ~~the commission may approve projects and power sales agreements~~  
 968 ~~with renewable power producers and the sale of renewable energy~~  
 969 ~~credits needed to comply with the renewable portfolio standard.~~  
 970 ~~In the event of any conflict, this subparagraph shall supersede~~  
 971 ~~s. 366.91(3) and (4). However, nothing in this section shall~~  
 972 ~~alter the obligation of each public utility to continuously~~  
 973 ~~offer a purchase contract to producers of renewable energy.~~

974 ~~2. Shall provide for appropriate compliance measures and~~  
 975 ~~the conditions under which noncompliance shall be excused due to~~  
 976 ~~a determination by the commission that the supply of renewable~~  
 977 ~~energy or renewable energy credits was not adequate to satisfy~~  
 978 ~~the demand for such energy or that the cost of securing~~  
 979 ~~renewable energy or renewable energy credits was cost~~  
 980 ~~prohibitive.~~

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

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

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

990 ~~6. Shall ensure that energy credited toward compliance~~  
991 ~~with the requirements of this section is not credited toward any~~  
992 ~~other purpose.~~

993 ~~7. Shall include procedures to track and account for~~  
994 ~~renewable energy credits, including ownership of renewable~~  
995 ~~energy credits that are derived from a customer-owned renewable~~  
996 ~~energy facility as a result of any action by a customer of an~~  
997 ~~electric power supplier that is independent of a program~~  
998 ~~sponsored by the electric power supplier.~~

999 ~~8. Shall provide for the conditions and options for the~~  
1000 ~~repeal or alteration of the rule in the event that new~~  
1001 ~~provisions of federal law supplant or conflict with the rule.~~

1002 ~~(c) Beginning on April 1 of the year following final~~  
1003 ~~adoption of the commission's renewable portfolio standard rule,~~  
1004 ~~each provider shall submit a report to the commission describing~~  
1005 ~~the steps that have been taken in the previous year and the~~  
1006 ~~steps that will be taken in the future to add renewable energy~~  
1007 ~~to the provider's energy supply portfolio. The report shall~~  
1008 ~~state whether the provider was in compliance with the renewable~~

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1009 ~~portfolio standard during the previous year and how it will~~  
 1010 ~~comply with the renewable portfolio standard in the upcoming~~  
 1011 ~~year.~~

1012 (4) The commission shall adopt rules to implement a public  
 1013 interest determination process by which it shall determine  
 1014 whether a renewable energy project, proposed by a utility for  
 1015 purposes of supplying electrical energy to its retail customers,  
 1016 provides an overall net benefit to the state pursuant to the  
 1017 criteria in subsection (3). The commission's rules shall:

1018 (a) Provide a process for competitive bidding of a  
 1019 renewable energy project based on the type and technology of the  
 1020 renewable energy resource that the utility elects to use.

1021 (b) Provide minimum requirements and information that a  
 1022 utility must include in a request for proposals for a new  
 1023 renewable energy project and other information related to the  
 1024 request for proposal and competitive bidding processes.

1025 (c) Establish minimum requirements and information that a  
 1026 utility must include in a petition for a public interest  
 1027 determination for a renewable energy project.

1028 (d) Provide for recovery through the environmental cost  
 1029 recovery clause of all reasonable and prudent costs incurred by  
 1030 a utility for a renewable energy project that the commission  
 1031 determines to be in the public interest pursuant to subsection  
 1032 (3).

1033 (e) Establish a mechanism for the sharing of revenues  
 1034 derived from any renewable energy credit, carbon credit, or  
 1035 other mechanism that attributes value to the production of  
 1036 renewable energy, either existing or hereafter devised, and

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1037 received by a utility by virtue of the production or purchase of  
 1038 renewable energy found to be in the public interest pursuant to  
 1039 subsection (3). The utility shall be entitled to retain from  
 1040 these revenues no more than the amount deemed reasonable by the  
 1041 commission to cover the utility's transaction costs associated  
 1042 with the credit or other mechanism, plus 5 percent of the  
 1043 remaining revenues. The remainder of the revenues shall be  
 1044 credited to the utility's ratepayers.

1045 (f) Require a utility to report to the commission on an  
 1046 annual basis, with respect to any renewable energy project that  
 1047 the commission determines to be in the public interest, the  
 1048 status of the project, the economic impacts of the project on  
 1049 the region and the state, the amount and type of fuel displaced  
 1050 by the project, operational statistics, and any other  
 1051 information deemed relevant by the commission.

1052 (g) Require a seller of renewable energy, under a  
 1053 purchased power agreement approved pursuant to the commission's  
 1054 rules and this subsection, to surrender to the utility all  
 1055 renewable attributes of the renewable energy purchased.

1056  
 1057 Agency rules promulgated under the authority of this subsection  
 1058 shall not take effect before July 1, 2013.

1059 ~~(4) In order to demonstrate the feasibility and viability~~  
 1060 ~~of clean energy systems, the commission shall provide for full~~  
 1061 ~~cost recovery under the environmental cost-recovery clause of~~  
 1062 ~~all reasonable and prudent costs incurred by a provider for~~  
 1063 ~~renewable energy projects that are zero greenhouse gas emitting~~  
 1064 ~~at the point of generation, up to a total of 110 megawatts~~

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1065 ~~statewide, and for which the provider has secured necessary~~  
 1066 ~~land, zoning permits, and transmission rights within the state.~~  
 1067 ~~Such costs shall be deemed reasonable and prudent for purposes~~  
 1068 ~~of cost recovery so long as the provider has used reasonable and~~  
 1069 ~~customary industry practices in the design, procurement, and~~  
 1070 ~~construction of the project in a cost-effective manner~~  
 1071 ~~appropriate to the location of the facility. The provider shall~~  
 1072 ~~report to the commission as part of the cost-recovery~~  
 1073 ~~proceedings the construction costs, in-service costs, operating~~  
 1074 ~~and maintenance costs, hourly energy production of the renewable~~  
 1075 ~~energy project, and any other information deemed relevant by the~~  
 1076 ~~commission. Any provider constructing a clean energy facility~~  
 1077 ~~pursuant to this section shall file for cost recovery no later~~  
 1078 ~~than July 1, 2009.~~

1079 (5) (a) Within 7 days after receipt of a petition for a  
 1080 public interest determination pursuant to subsection (3), the  
 1081 commission, through administrative review by its staff, shall  
 1082 determine whether the petition is complete. If the commission  
 1083 finds that the petition is not complete, it shall notify the  
 1084 petitioner of all deficiencies and provide the petitioner an  
 1085 opportunity to correct the deficiencies through an amended or  
 1086 supplemental filing.

1087 (b) When the commission determines that a petition is  
 1088 complete, the commission shall notify the department and forward  
 1089 a copy of the petition to the department within 3 days. After  
 1090 receipt and review of the petition, the department may request  
 1091 any additional information it deems necessary to complete the  
 1092 review of the petition pursuant to s. 20.60(5) (a).

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1093 (c) Within 45 days after receipt of the complete petition,  
 1094 the department shall complete its analysis and evaluation and  
 1095 submit a report reflecting its findings to the commission for  
 1096 consideration in the commission's public interest determination  
 1097 proceeding. The department's report is not subject to the  
 1098 provisions of ss. 120.569 and 120.57. Any party to the  
 1099 commission's public interest determination proceeding may  
 1100 present evidence to the commission concerning the regional and  
 1101 statewide economic benefits associated with the project.

1102 (d) The commission shall issue a final order within 180  
 1103 days after receipt of a complete petition for a public interest  
 1104 determination filed pursuant to subsection (3).

1105 (6)-(5) Each municipal electric utility and rural electric  
 1106 cooperative shall develop standards for the promotion,  
 1107 encouragement, and expansion of the use of renewable energy  
 1108 resources and energy conservation and efficiency measures. On or  
 1109 before April 1, 2009, and annually thereafter, each municipal  
 1110 electric utility and electric cooperative shall submit to the  
 1111 commission a report that identifies such standards.

1112 (7)-(6) ~~Nothing in~~ This section and any action taken under  
 1113 this section may not shall be construed to impede or impair the  
 1114 terms and conditions of, or serve as a basis for renegotiating  
 1115 or repricing an existing contract contracts. This section may  
 1116 not be construed to apply to purchases required pursuant to s.  
 1117 366.051 or s. 366.91.

1118 (8)-(7) The commission may adopt rules to administer and  
 1119 implement the provisions of this section.

1120 Section 10. Section 366.94, Florida Statutes, is created



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1121 to read:

1122 366.94 Electric vehicle charging stations.—

1123 (1) LEGISLATIVE FINDINGS.—The Legislature finds that the  
1124 provision of electric vehicle charging to the public by a  
1125 nonutility is a service and not the retail sale of electricity.  
1126 The rates, terms, and conditions of electric vehicle charging  
1127 services by a nonutility are not subject to regulation under  
1128 this chapter. Nothing in this section affects the ability of  
1129 individuals, businesses, or governmental entities to acquire,  
1130 install, or use an electric vehicle charger for their own  
1131 vehicles.

1132 (2) RULES.—The Department of Agriculture and Consumer  
1133 Services shall adopt rules to provide definitions, methods of  
1134 sale, labeling requirements, and price-posting requirements for  
1135 electric vehicle charging stations to allow for consistency for  
1136 consumers and the industry.

1137 (3) PARKING SPACES FOR ELECTRIC VEHICLE CHARGING  
1138 STATIONS.—

1139 (a) It is unlawful for a person to stop, stand, or park a  
1140 vehicle that is not capable of using an electrical recharging  
1141 station within any parking space specifically designated for  
1142 charging an electric vehicle.

1143 (b) If a law enforcement officer finds a motor vehicle in  
1144 violation of this subsection, the officer or specialist shall  
1145 charge the operator or other person in charge of the vehicle in  
1146 violation with a noncriminal traffic infraction, punishable as  
1147 provided in s. 316.008(4) or s. 318.18.

1148 Section 11. Subsection (3) of section 403.519, Florida

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1149 Statutes, is amended to read:

1150 403.519 Exclusive forum for determination of need.—

1151 (3) The commission is ~~shall be~~ the sole forum for the  
 1152 determination of this matter, which accordingly may ~~shall~~ not be  
 1153 raised in any other forum or in the review of proceedings in  
 1154 such other forum. In making its determination, the commission  
 1155 shall take into account the need for electric system reliability  
 1156 and integrity, the need for adequate electricity at a reasonable  
 1157 cost, the need to improve the balance of power plant ~~for~~ fuel  
 1158 diversity and supply reliability within the state and within the  
 1159 generation portfolio of the applicant, whether the proposed  
 1160 plant is the most cost-effective alternative available, and  
 1161 whether renewable energy sources and technologies, as well as  
 1162 conservation measures, are used ~~utilized~~ to the extent  
 1163 reasonably available. The commission shall also expressly  
 1164 consider the conservation measures taken by or reasonably  
 1165 available to the applicant or its members which might mitigate  
 1166 the need for the proposed plant and other matters within its  
 1167 jurisdiction which it deems relevant. The commission's  
 1168 determination of need for an electrical power plant creates  
 1169 ~~shall create~~ a presumption of public need and necessity and  
 1170 serves ~~shall serve~~ as the commission's report required by s.  
 1171 403.507(4). An order entered pursuant to this section  
 1172 constitutes final agency action.

1173 Section 12. Subsection (1) of section 526.203, Florida  
 1174 Statutes, is amended to read:

1175 526.203 Renewable fuel standard.—

1176 (1) DEFINITIONS.—As used in this act:

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1177           (a) "Alternative fuel" means a fuel produced from biomass,  
 1178 as defined in s. 366.91, that is used to replace or reduce the  
 1179 quantity of fossil fuel present in a petroleum fuel that meets  
 1180 the specifications as adopted by the department.

1181           (b)-(a) "Blender," "importer," "terminal supplier," and  
 1182 "wholesaler" are defined as provided in s. 206.01.

1183           (c)-(b) "Blended gasoline" means a mixture of 90 to 91  
 1184 percent gasoline and 9 to 10 percent fuel ethanol or other  
 1185 alternative fuel, by volume, that meets the specifications as  
 1186 adopted by the department. The fuel ethanol or other alternative  
 1187 fuel portion may be derived from any agricultural source.

1188           (d)-(e) "Fuel ethanol" means an anhydrous denatured alcohol  
 1189 produced by the conversion of carbohydrates that meets the  
 1190 specifications as adopted by the department.

1191           (e)-(d) "Unblended gasoline" means gasoline that has not  
 1192 been blended with fuel ethanol or other alternative fuel and  
 1193 that meets the specifications as adopted by the department.

1194           Section 13. Subsection (4) of section 581.083, Florida  
 1195 Statutes, is amended to read:

1196           581.083 Introduction or release of plant pests, noxious  
 1197 weeds, or organisms affecting plant life; cultivation of  
 1198 nonnative plants; special permit and security required.—

1199           (4) A person may not cultivate a nonnative plant, algae,  
 1200 or blue-green algae, including a genetically engineered plant,  
 1201 algae, or blue-green algae ~~or a plant that has been introduced,~~  
 1202 ~~for purposes of fuel production or purposes other than~~  
 1203 ~~agriculture~~ in plantings greater in size than 2 contiguous  
 1204 acres, except under a special permit issued by the department

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1205 through the division, which is the sole agency responsible for  
1206 issuing such special permits. Such a permit shall not be  
1207 required if the department determines, after consulting ~~in~~  
1208 ~~conjunction~~ with the Institute of Food and Agricultural Sciences  
1209 at the University of Florida, that, based on experience or  
1210 research data, the nonnative plant, algae, or blue-green algae  
1211 does not pose a known threat of becoming an ~~is not~~ invasive  
1212 species or a pest of plants or native fauna under conditions in  
1213 this state and subsequently exempts the plant by rule. A permit  
1214 shall not be required for any plant or group of plants that,  
1215 based on experience or research data, does not pose a known  
1216 threat of becoming an invasive species and is commonly grown in  
1217 this state for the purposes of human food consumption or for  
1218 commercial feed, feedstuff, forage for livestock, nursery stock,  
1219 or silviculture.

1220 (a)1. Each application for a special permit must be  
1221 accompanied by a fee as described in subsection (2) and proof  
1222 that the applicant has obtained, on a form approved by the  
1223 department, ~~a bond in the form approved by the department and~~  
1224 ~~issued by a surety company admitted to do business in this state~~  
1225 ~~or a certificate of deposit,~~ or other type of security adopted  
1226 by rule of the department which provides a financial assurance  
1227 of cost recovery for the removal of a planting. The application  
1228 must include, on a form provided by the department, the name of  
1229 the applicant and the applicant's address or the address of the  
1230 applicant's principal place of business; a statement completely  
1231 identifying the nonnative plant to be cultivated; and a  
1232 statement of the estimated cost of removing and destroying the

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1233 | plant that is the subject of the special permit and the basis  
1234 | for calculating or determining that estimate. If the applicant  
1235 | is a corporation, partnership, or other business entity, the  
1236 | applicant must also provide in the application the name and  
1237 | address of each officer, partner, or managing agent. The  
1238 | applicant shall notify the department within 10 business days of  
1239 | any change of address or change in the principal place of  
1240 | business. The department shall mail all notices to the  
1241 | applicant's last known address.

1242 |         2. As used in this subsection, the term "certificate of  
1243 | deposit" means a certificate of deposit at any recognized  
1244 | financial institution doing business in the United States. The  
1245 | department may not accept a certificate of deposit in connection  
1246 | with the issuance of a special permit unless the issuing  
1247 | institution is properly insured by the Federal Deposit Insurance  
1248 | Corporation or the Federal Savings and Loan Insurance  
1249 | Corporation.

1250 |         (b) Upon obtaining a permit, the permitholder may annually  
1251 | cultivate and maintain the nonnative plants as authorized by the  
1252 | special permit. If the permitholder ceases to maintain or  
1253 | cultivate the plants authorized by the special permit, if the  
1254 | permit expires, or if the permitholder ceases to abide by the  
1255 | conditions of the special permit, the permitholder shall  
1256 | immediately remove and destroy the plants that are subject to  
1257 | the permit, if any remain. The permitholder shall notify the  
1258 | department of the removal and destruction of the plants within  
1259 | 10 days after such event.

1260 |         (c) If the department:

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- 1261           1. Determines that the permitholder is no longer  
1262 maintaining or cultivating the plants subject to the special  
1263 permit and has not removed and destroyed the plants authorized  
1264 by the special permit;
- 1265           2. Determines that the continued maintenance or  
1266 cultivation of the plants presents an imminent danger to public  
1267 health, safety, or welfare;
- 1268           3. Determines that the permitholder has exceeded the  
1269 conditions of the authorized special permit; or
- 1270           4. Receives a notice of cancellation of the surety bond,  
1271  
1272 the department may issue an immediate final order, which shall  
1273 be immediately appealable or enjoicable as provided by chapter  
1274 120, directing the permitholder to immediately remove and  
1275 destroy the plants authorized to be cultivated under the special  
1276 permit. A copy of the immediate final order must ~~shall~~ be mailed  
1277 to the permitholder and to the surety company or financial  
1278 institution that has provided security for the special permit,  
1279 if applicable.
- 1280           (d) If, upon issuance by the department of an immediate  
1281 final order to the permitholder, the permitholder fails to  
1282 remove and destroy the plants subject to the special permit  
1283 within 60 days after issuance of the order, or such shorter  
1284 period as is designated in the order as public health, safety,  
1285 or welfare requires, the department may enter the cultivated  
1286 acreage and remove and destroy the plants that are the subject  
1287 of the special permit. If the permitholder makes a written  
1288 request to the department for an extension of time to remove and

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1289 | destroy the plants that demonstrates specific facts showing why  
1290 | the plants could not reasonably be removed and destroyed in the  
1291 | applicable timeframe, the department may extend the time for  
1292 | removing and destroying plants subject to a special permit. The  
1293 | reasonable costs and expenses incurred by the department for  
1294 | removing and destroying plants subject to a special permit shall  
1295 | be reimbursed to the department by the permitholder within 21  
1296 | days after the date the permitholder and the surety company or  
1297 | financial institution are served a copy of the department's  
1298 | invoice for the costs and expenses incurred by the department to  
1299 | remove and destroy the cultivated plants, along with a notice of  
1300 | administrative rights, unless the permitholder or the surety  
1301 | company or financial institution object to the reasonableness of  
1302 | the invoice. In the event of an objection, the permitholder or  
1303 | surety company or financial institution is entitled to an  
1304 | administrative proceeding as provided by chapter 120. Upon entry  
1305 | of a final order determining the reasonableness of the incurred  
1306 | costs and expenses, the permitholder has ~~shall have~~ 15 days  
1307 | after ~~following~~ service of the final order to reimburse the  
1308 | department. Failure of the permitholder to timely reimburse the  
1309 | department for the incurred costs and expenses entitles the  
1310 | department to reimbursement from the applicable bond or  
1311 | certificate of deposit.

1312 | (e) Each permitholder shall maintain for each separate  
1313 | growing location a bond or a certificate of deposit in an amount  
1314 | determined by the department, but not more ~~less~~ than 150 percent  
1315 | of the estimated cost of removing and destroying the cultivated  
1316 | plants. The bond or certificate of deposit may not exceed \$5,000

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1317 | per acre, unless a higher amount is determined by the department  
1318 | to be necessary to protect the public health, safety, and  
1319 | welfare or unless an exemption is granted by the department  
1320 | based on conditions specified in the application which would  
1321 | preclude the department from incurring the cost of removing and  
1322 | destroying the cultivated plants and would prevent injury to the  
1323 | public health, safety, and welfare. The aggregate liability of  
1324 | the surety company or financial institution to all persons for  
1325 | all breaches of the conditions of the bond or certificate of  
1326 | deposit may not exceed the amount of the bond or certificate of  
1327 | deposit. The original bond or certificate of deposit required by  
1328 | this subsection shall be filed with the department. A surety  
1329 | company shall give the department 30 days' written notice of  
1330 | cancellation, by certified mail, in order to cancel a bond.  
1331 | Cancellation of a bond does not relieve a surety company of  
1332 | liability for paying to the department all costs and expenses  
1333 | incurred or to be incurred for removing and destroying the  
1334 | permitted plants covered by an immediate final order authorized  
1335 | under paragraph (c). A bond or certificate of deposit must be  
1336 | provided or assigned in the exact name in which an applicant  
1337 | applies for a special permit. The penal sum of the bond or  
1338 | certificate of deposit to be furnished to the department by a  
1339 | permitholder in the amount specified in this paragraph must  
1340 | guarantee payment of the costs and expenses incurred or to be  
1341 | incurred by the department for removing and destroying the  
1342 | plants cultivated under the issued special permit. The bond or  
1343 | certificate of deposit assignment or agreement must be upon a  
1344 | form prescribed or approved by the department and must be

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1345 | conditioned to secure the faithful accounting for and payment of  
1346 | all costs and expenses incurred by the department for removing  
1347 | and destroying all plants cultivated under the special permit.  
1348 | The bond or certificate of deposit assignment or agreement must  
1349 | include terms binding the instrument to the Commissioner of  
1350 | Agriculture. Such certificate of deposit shall be presented with  
1351 | an assignment of the permitholder's rights in the certificate in  
1352 | favor of the Commissioner of Agriculture on a form prescribed by  
1353 | the department and with a letter from the issuing institution  
1354 | acknowledging that the assignment has been properly recorded on  
1355 | the books of the issuing institution and will be honored by the  
1356 | issuing institution. Such assignment is irrevocable while a  
1357 | special permit is in effect and for an additional period of 6  
1358 | months after termination of the special permit if operations to  
1359 | remove and destroy the permitted plants are not continuing and  
1360 | if the department's invoice remains unpaid by the permitholder  
1361 | under the issued immediate final order. If operations to remove  
1362 | and destroy the plants are pending, the assignment remains in  
1363 | effect until all plants are removed and destroyed and the  
1364 | department's invoice has been paid. The bond or certificate of  
1365 | deposit may be released by the assignee of the surety company or  
1366 | financial institution to the permitholder, or to the  
1367 | permitholder's successors, assignee, or heirs, if operations to  
1368 | remove and destroy the permitted plants are not pending and no  
1369 | invoice remains unpaid at the conclusion of 6 months after the  
1370 | last effective date of the special permit. The department may  
1371 | not accept a certificate of deposit that contains any provision  
1372 | that would give to any person any prior rights or claim on the

1373 | proceeds or principal of such certificate of deposit. The  
 1374 | department shall determine by rule whether an annual bond or  
 1375 | certificate of deposit will be required. The amount of such bond  
 1376 | or certificate of deposit shall be increased, upon order of the  
 1377 | department, at any time if the department finds such increase to  
 1378 | be warranted by the cultivating operations of the permitholder.  
 1379 | In the same manner, the amount of such bond or certificate of  
 1380 | deposit may be adjusted downward or removed ~~decreased~~ when a  
 1381 | decrease in the cultivating operations of the permitholder  
 1382 | occurs or when research or practical field knowledge and  
 1383 | observations indicate a low risk of invasiveness by the  
 1384 | nonnative species ~~warrants such decrease~~. Factors that may be  
 1385 | considered for change include multiple years or cycles of  
 1386 | successful large-scale contained cultivation; no observation of  
 1387 | plant, algae, or blue-green algae escape from managed areas; or  
 1388 | science-based evidence that established or approved adjusted  
 1389 | cultivation practices provide a similar level of containment of  
 1390 | the nonnative plant, algae, or blue-green algae. This paragraph  
 1391 | applies to any bond or certificate of deposit, regardless of the  
 1392 | anniversary date of its issuance, expiration, or renewal.

1393 | (f) In order to carry out the purposes of this subsection,  
 1394 | the department or its agents may require from any permitholder  
 1395 | verified statements of the cultivated acreage subject to the  
 1396 | special permit and may review the permitholder's business or  
 1397 | cultivation records at her or his place of business during  
 1398 | normal business hours in order to determine the acreage  
 1399 | cultivated. The failure of a permitholder to furnish such  
 1400 | statement, to make such records available, or to make and

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1401 deliver a new or additional bond or certificate of deposit is  
 1402 cause for suspension of the special permit. If the department  
 1403 finds such failure to be willful, the special permit may be  
 1404 revoked.

1405 Section 14. Subsection (3) of section 20.121, Florida  
 1406 Statutes, is amended to read:

1407 20.121 Department of Financial Services.—There is created  
 1408 a Department of Financial Services.

1409 (3) FINANCIAL SERVICES COMMISSION.—Effective January 7,  
 1410 2003, there is created within the Department of Financial  
 1411 Services the Financial Services Commission, composed of the  
 1412 Governor, the Attorney General, the Chief Financial Officer, and  
 1413 the Commissioner of Agriculture, which shall for purposes of  
 1414 this section be referred to as the commission. Commission  
 1415 members shall serve as agency head of the Financial Services  
 1416 Commission. The commission shall be a separate budget entity and  
 1417 shall be exempt from the provisions of s. 20.052. Commission  
 1418 action shall be by majority vote consisting of at least three  
 1419 affirmative votes. The commission shall not be subject to  
 1420 control, supervision, or direction by the Department of  
 1421 Financial Services in any manner, including purchasing,  
 1422 transactions involving real or personal property, personnel, or  
 1423 budgetary matters.

1424 (a) Structure.—The major structural unit of the commission  
 1425 is the office. Each office shall be headed by a director. The  
 1426 following offices are established:

1427 1. The Office of Insurance Regulation, which shall be  
 1428 responsible for all activities concerning insurers and other

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1429 risk bearing entities, including licensing, rates, policy forms,  
1430 market conduct, claims, issuance of certificates of authority,  
1431 solvency, viatical settlements, premium financing, and  
1432 administrative supervision, as provided under the insurance code  
1433 or chapter 636. The head of the Office of Insurance Regulation  
1434 is the Director of the Office of Insurance Regulation, who may  
1435 also be known as the Commissioner of Insurance Regulation.

1436 2. The Office of Financial Regulation, which shall be  
1437 responsible for all activities of the Financial Services  
1438 Commission relating to the regulation of banks, credit unions,  
1439 other financial institutions, finance companies, and the  
1440 securities industry. The head of the office is the Director of  
1441 the Office of Financial Regulation, who may also be known as the  
1442 Commissioner of Financial Regulation. The Office of Financial  
1443 Regulation shall include a Bureau of Financial Investigations,  
1444 which shall function as a criminal justice agency for purposes  
1445 of ss. 943.045-943.08 and shall have a separate budget. The  
1446 bureau may conduct investigations within or outside this state  
1447 as the bureau deems necessary to aid in the enforcement of this  
1448 section. If, during an investigation, the office has reason to  
1449 believe that any criminal law of this state has or may have been  
1450 violated, the office shall refer any records tending to show  
1451 such violation to state or federal law enforcement or  
1452 prosecutorial agencies and shall provide investigative  
1453 assistance to those agencies as required.

1454 3. The Office of Public Counsel, the responsibilities of  
1455 which are set forth in chapter 350. The Public Counsel shall  
1456 perform his or her duties independently.

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1457 (b) Organization.—The commission shall establish by rule  
 1458 any additional organizational structure of the offices other  
 1459 than the Office of Public Counsel. It is the intent of the  
 1460 Legislature to provide the commission with the flexibility to  
 1461 organize the offices, other than the Office of Public Counsel  
 1462 which shall remain independent, in any manner they determine  
 1463 appropriate to promote both efficiency and accountability.

1464 (c) Powers.—Commission members shall serve as the agency  
 1465 head for purposes of rulemaking under ss. 120.536-120.565 by the  
 1466 commission and all subunits of the commission. Each director is  
 1467 agency head for purposes of final agency action under chapter  
 1468 120 for all areas within the regulatory authority delegated to  
 1469 the director's office.

1470 (d) Appointment and qualifications of directors.—The  
 1471 Public Counsel shall be appointed pursuant to s. 350.061 and is  
 1472 subject to the qualifications provided therein. The commission  
 1473 shall appoint or remove the each director of the Office of  
 1474 Insurance Regulation and the director of the Office of Financial  
 1475 Regulation by a majority vote consisting of at least three  
 1476 affirmative votes, with both the Governor and the Chief  
 1477 Financial Officer on the prevailing side. The minimum  
 1478 qualifications of the directors are as follows:

- 1479 1. Prior to appointment as director, the Director of the  
 1480 Office of Insurance Regulation must have had, within the  
 1481 previous 10 years, at least 5 years of responsible private  
 1482 sector experience working full time in areas within the scope of  
 1483 the subject matter jurisdiction of the Office of Insurance  
 1484 Regulation or at least 5 years of experience as a senior

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1485 examiner or other senior employee of a state or federal agency  
1486 having regulatory responsibility over insurers or insurance  
1487 agencies.

1488 2. Prior to appointment as director, the Director of the  
1489 Office of Financial Regulation must have had, within the  
1490 previous 10 years, at least 5 years of responsible private  
1491 sector experience working full time in areas within the subject  
1492 matter jurisdiction of the Office of Financial Regulation or at  
1493 least 5 years of experience as a senior examiner or other senior  
1494 employee of a state or federal agency having regulatory  
1495 responsibility over financial institutions, finance companies,  
1496 or securities companies.

1497 (e) Administrative support.—The offices shall have a  
1498 sufficient number of attorneys, examiners, investigators, other  
1499 professional personnel to carry out their responsibilities and  
1500 administrative personnel as determined annually in the  
1501 appropriations process. The Department of Financial Services  
1502 shall provide administrative and information systems support to  
1503 the offices.

1504 (f) Records retention schedules.—The commission and the  
1505 offices may destroy general correspondence files and also any  
1506 other records that they deem no longer necessary to preserve in  
1507 accordance with retention schedules and destruction notices  
1508 established under rules of the Division of Library and  
1509 Information Services, records and information management  
1510 program, of the Department of State. Such schedules and notices  
1511 relating to financial records of the commission and offices  
1512 shall be subject to the approval of the Auditor General.

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1513 (g) Records storage.—The commission and offices may  
 1514 photograph, microphotograph, or reproduce on film such documents  
 1515 and records as they may select, in such manner that each page  
 1516 will be exposed in exact conformity with the original. After  
 1517 reproduction and filing, original documents and records may be  
 1518 destroyed in accordance with the provisions of paragraph (f).

1519 Section 15. Subsection (1) of section 350.061, Florida  
 1520 Statutes, is amended to read:

1521 350.061 Public Counsel; appointment; oath; restrictions on  
 1522 Public Counsel and his or her employees.—

1523 (1) (a) The Financial Services Commission ~~committee~~  
 1524 ~~designated by joint rule of the Legislature or by agreement~~  
 1525 ~~between the President of the Senate and the Speaker of the House~~  
 1526 ~~of Representatives as the Committee on Public Counsel Oversight~~  
 1527 shall appoint a Public Counsel by majority vote, consisting of  
 1528 at least three affirmative votes, to represent the general  
 1529 public of Florida before the Florida Public Service Commission.  
 1530 Appointment of the Public Counsel shall be subject to  
 1531 confirmation by the Senate. Until such time as the Senate  
 1532 confirms the appointment, the appointee shall perform the  
 1533 functions of the office as provided by law.

1534 (b) The Public Counsel shall be an attorney admitted to  
 1535 practice before the Florida Supreme Court and shall serve at the  
 1536 pleasure of the Financial Services Commission ~~Committee on~~  
 1537 ~~Public Counsel Oversight, subject to biennial reconfirmation by~~  
 1538 ~~the committee.~~ The Public Counsel shall perform his or her  
 1539 duties independently.

1540 (c) Vacancies in the office shall be filled in the same

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1541 manner as the original appointment. The Financial Services  
 1542 Commission may remove the Public Counsel by majority vote,  
 1543 consisting of at least three affirmative votes. In the event of  
 1544 a vacancy, the Financial Services Commission may appoint an  
 1545 interim Public Counsel to serve until a new Public Counsel is  
 1546 appointed.

1547 Section 16. Section 350.0613, Florida Statutes, is amended  
 1548 to read:

1549 350.0613 Public Counsel; employees; budget; receipt of  
 1550 pleadings.—

1551 (1) The Public Counsel is authorized to employ clerical,  
 1552 technical, and professional personnel that the Public Counsel  
 1553 deems to be reasonably necessary for the performance of the  
 1554 duties of the office. The Public Counsel shall set the  
 1555 compensation for all personnel of the office and shall be  
 1556 responsible for the supervision and direction of all such  
 1557 personnel. The Public Counsel may retain ~~The committee may~~  
 1558 ~~authorize the Public Counsel to employ clerical and technical~~  
 1559 ~~assistants whose qualifications, duties, and responsibilities~~  
 1560 ~~the committee shall from time to time prescribe. The committee~~  
 1561 ~~may from time to time authorize retention of the services of~~  
 1562 additional attorneys or experts to the extent that the best  
 1563 interests of the people of the state will be better served  
 1564 thereby, including the retention of expert witnesses and other  
 1565 technical personnel for participation in contested proceedings  
 1566 before the commission.

1567 (2) The Public Counsel is responsible for preparing the  
 1568 budget for the office and shall submit the budget to the



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1569 Financial Services Commission.

1570       (3) The Public Service Commission shall furnish the Public  
 1571 Counsel with copies of the initial pleadings in all proceedings  
 1572 before the commission, and if the Public Counsel intervenes as a  
 1573 party in any proceeding he or she shall be served with copies of  
 1574 all subsequent pleadings, exhibits, and prepared testimony, if  
 1575 used. Upon filing notice of intervention, the Public Counsel  
 1576 shall serve all interested parties with copies of such notice  
 1577 and all of his or her subsequent pleadings and exhibits.

1578       Section 17. Section 350.0614, Florida Statutes, is amended  
 1579 to read:

1580       350.0614 Public Counsel; compensation and expenses.—

1581       ~~(1)~~ The salary of the Public Counsel shall be set by the  
 1582 Financial Services Commission. The salaries and expenses of the  
 1583 Public Counsel and his or her employees shall be allocated by  
 1584 the Financial Services Commission ~~committee~~ only from moneys  
 1585 appropriated to the Public Counsel by the Legislature.

1586       ~~(2) The Legislature declares and determines that the~~  
 1587 ~~Public Counsel is under the legislative branch of government~~  
 1588 ~~within the intention of the legislation as expressed in chapter~~  
 1589 ~~216, and no power shall be in the Executive Office of the~~  
 1590 ~~Governor or its successor to release or withhold funds~~  
 1591 ~~appropriated to it, but the same shall be available for~~  
 1592 ~~expenditure as provided by law.~~

1593       ~~(3) Neither the Executive Office of the Governor nor the~~  
 1594 ~~Department of Management Services or its successor shall have~~  
 1595 ~~power to determine the number, or fix the compensation, of the~~  
 1596 ~~employees of the Public Counsel or to exercise any manner of~~

1597 ~~control over them.~~

1598       Section 18. (1) All powers, duties, functions, records,  
 1599 offices, personnel, property, and pending issues and existing  
 1600 contracts, administrative authority, administrative rules, and  
 1601 unexpended balances of appropriations, allocations, and other  
 1602 funds relating to the Office of Public Counsel pursuant to s.  
 1603 350.061, Florida Statutes, are transferred by a type two  
 1604 transfer, as defined in s. 20.06(2), Florida Statutes, from the  
 1605 Legislature to the Financial Services Commission. The Office of  
 1606 Public Counsel shall be funded from the General Revenue Fund.

1607       (2) Notwithstanding ss. 216.292 and 216.351, Florida  
 1608 Statutes, upon approval by the Legislative Budget Commission,  
 1609 the Executive Office of the Governor shall transfer funds and  
 1610 positions between the Legislature and the Financial Services  
 1611 Commission to implement this act.

1612       Section 19. The Department of Agriculture and Consumer  
 1613 Services shall conduct a comprehensive statewide forest  
 1614 inventory analysis and study, using a geographic information  
 1615 system, to identify where available biomass is located,  
 1616 determine the available biomass resources, and ensure forest  
 1617 sustainability within the state. The department shall submit the  
 1618 results of the study to the President of the Senate, the Speaker  
 1619 of the House of Representatives, and the Executive Office of the  
 1620 Governor by July 1, 2013.

1621       Section 20. The Department of Agriculture and Consumer  
 1622 Services, in consultation with the Public Service Commission,  
 1623 the Florida Building Commission, and the Florida Energy Systems  
 1624 Consortium, shall develop a clearinghouse of information

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1625 regarding cost savings associated with various energy efficiency  
1626 and conservation measures. The department shall post the  
1627 information on its website by July 1, 2013.

1628 Section 21. The Public Service Commission is directed to  
1629 conduct a study of the potential effects of public charging  
1630 stations and privately owned electric vehicle charging on both  
1631 energy consumption and the impact on the electric grid in the  
1632 state. The Public Service Commission shall also investigate the  
1633 feasibility of using off-grid solar photovoltaic power as a  
1634 source of electricity for the electric vehicle charging  
1635 stations. The commission shall submit the results of the study  
1636 to the President of the Senate, the Speaker of the House of  
1637 Representatives, and the Executive Office of the Governor by  
1638 December 31, 2012.

1639 Section 22. Subject to a specific appropriation, the  
1640 Public Service Commission, in consultation with the Department  
1641 of Agriculture and Consumer Services, shall contract for an  
1642 independent evaluation of the effectiveness of the Florida  
1643 Energy Efficiency and Conservation Act in achieving the  
1644 statutory objectives of reducing and controlling the growth  
1645 rates of electric consumption and reducing the growth rates of  
1646 weather-sensitive peak demand, increasing the overall efficiency  
1647 and cost-effectiveness of electricity and natural gas production  
1648 and use, encouraging further development of demand-side  
1649 renewable energy systems; and conserving expensive resources,  
1650 particularly petroleum fuels.

1651 (1) The evaluation shall include an assessment of:

1652 (a) The effectiveness of the act in accomplishing

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1653 statutory objectives in a cost-effective manner, taking into  
 1654 account short-term and long-term costs and benefits;

1655 (b) The models and methods used to establish conservation  
 1656 goals and programs to meet those goals;

1657 (c) The strengths and weaknesses of the act relative to  
 1658 alternative methods available to achieve statutory objectives;

1659 (d) The coordination between the goal-setting process in  
 1660 s. 366.82 and the determination of need process in s. 403.519,  
 1661 including the manner in which supply-side conservation and  
 1662 efficiency measures are addressed; and

1663 (e) The potential for time-based rates and advanced  
 1664 metering technology, or other mechanisms, to allow customers to  
 1665 manage their energy consumption and allow for peak load shaving.

1666 (2) The findings and recommendations of the evaluation  
 1667 shall be submitted to the President of the Senate, the Speaker  
 1668 of the House of Representatives, and the Executive Office of the  
 1669 Governor by January 31, 2013.

1670 Section 23. This act shall take effect July 1, 2012.