**FOR CONSIDERATION By** the Committee on Communications, Energy, and Public Utilities

579-02375A-12 20127202__

A bill to be entitled

An act relating to energy; amending s. 186.801, F.S.; adding factors for the Public Service Commission to consider in reviewing the 10-year site plans submitted to the commission by electric utilities; amending s. 212.08, F.S.; providing definitions; providing a sales tax exemption for materials used in the distribution of biodiesel, ethanol, and other renewable fuels; specifying duties of the Department of Agriculture and Consumer Services in evaluating and approving applications for the exemption; authorizing the department to adopt rules; providing for future expiration of the tax exemption; amending s. 220.192, F.S., relating to the renewable energy technologies investment tax credit; revising definitions and defining the term "renewable fuel"; increasing the amount of available tax credit each fiscal year; extending the period during which the renewable energy technologies investment tax credit is available; deleting provisions authorizing a credit for hydrogen-powered vehicles and fuel cells; authorizing the Department of Agriculture and Consumer Services to adopt rules; amending s. 220.193, F.S., relating to the Florida renewable energy production credit; extending the period during which the credit is available; specifying the amount that each applicant is eligible to receive in tax credits; amending s. 255.257, F.S.; requiring the Department of Management Services to adopt rules for the state energy

management plan, in coordination with the Department of Agriculture and Consumer Services; revising the requirements for the state energy management plan; requiring standard and uniform benchmark measures; amending s. 288.106, F.S.; redefining the term "target industry business," for purposes of a tax refund program, to exclude certain electrical utilities; creating s. 366.94, F.S.; exempting the sale of electricity to the public for the purpose electric vehicle charging stations from regulation under ch. 366, F.S.; requiring the Florida Building Commission, in coordination with the Department of Agriculture and Consumer Services and the Public Service Commission, to adopt rules to provide uniform standards for building electric vehicle charging stations; providing that the development of uniform standards is preempted to the state; requiring the Department of Agriculture and Consumer Services to develop rules for sales at electric vehicle charging stations; requiring that the Public Service Commission study the effects of charging stations on energy consumption in the state and the effects on the grid; prohibiting the obstruction of a parking space at an electric vehicle charging station; providing a penalty; amending s. 403.519, F.S.; requiring the Public Service Commission to consider the need to improve the balance of power plant fuel diversity and reduce Florida's dependence on natural gas when determining the need for a proposed power plant; amending s. 581.083, F.S.;

including algae and blue-green algae in provisions on permitting related to nonnative plants; clarifying exemption provisions; providing greater flexibility in reducing the amount of bond required; requiring the Department of Agriculture and Consumer Services to conduct a statewide forest inventory; requiring the Department of Agriculture and Consumer Services to work with other specified entities to develop information on cost savings for energy efficiency and conservation measures and post it on the department's webpage; requiring the Public Service Commission to evaluate the provisions in the Florida Energy Efficiency and Conservation Act; requiring reports to the Legislature and the Executive Office of the Governor; providing an effective date.

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

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

186.801 Ten-year site plans.—

(2) Within 9 months after the receipt of the proposed plan, the commission shall make a preliminary study of such plan and classify it as "suitable" or "unsuitable." The commission may suggest alternatives to the plan. All findings of the commission shall be made available to the Department of Environmental Protection for its consideration at any subsequent electrical power plant site certification proceedings. It is recognized that 10-year site plans submitted by an electric utility are

tentative information for planning purposes only and may be amended at any time at the discretion of the utility upon written notification to the commission. A complete application for certification of an electrical power plant site under chapter 403, when such site is not designated in the current 10-year site plan of the applicant, shall constitute an amendment to the 10-year site plan. In its preliminary study of each 10-year site plan, the commission shall consider such plan as a planning document and shall review:

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

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

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

(d) Possible alternatives to the proposed plan.

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

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

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

(h) The amount of renewable energy resources the provider produces or purchases.

(i) The amount of renewable energy resources the provider plans to produce or purchase over the 10-year planning horizon and the means by which the production or purchases will be

achieved.

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

Section 2. Paragraph (hhh) is added to subsection (7) of section 212.08, Florida Statutes, to read:

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

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

this subsection.

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

1. As used in this paragraph, the term:

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

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

c. "Renewable fuel" means a fuel that has been approved by the United States Environmental Protection Agency, that is produced from biomass as defined in s. 366.91(2)(a), and that is used to replace or reduce the quantity of fossil fuel present in a transportation fuel.

2. The sale or use of the following materials in the state is exempt from the tax imposed by this chapter. Materials used in the distribution of biodiesel (B10-B100), ethanol (E10-E100), and other renewable fuels, including fueling infrastructure, transportation, and storage, are exempt up to a limit of $1 million in tax each state fiscal year for all taxpayers.

Gasoline fueling station pump retrofits for biodiesel (B10-B100), ethanol (E10-E100), and other renewable fuels distribution qualify for the exemption provided in this paragraph.

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

4.a. The exemption provided in this paragraph is available to a purchaser only through a refund of previously paid taxes. An eligible item is subject to refund one time. A person who has received a refund on an eligible item must notify the next purchaser of the item that the item is not eligible for a refund of paid taxes. The notification must be provided to each subsequent purchaser on the sales invoice or other proof of purchase.

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

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

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

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

(IV) A sworn statement that the information provided is

accurate and that the requirements of this paragraph have been met.

c. Within 30 days after receipt of an application, the Department of Agriculture and Consumer Services shall evaluate the application and notify the applicant of any deficiencies. Upon receipt of a completed application, the Department of Agriculture and Consumer Services shall evaluate the application for the exemption and issue a written certification that the applicant is eligible for a refund or issue a written denial of the certification. The Department of Agriculture and Consumer Services shall provide the department a copy of each certification issued upon approval of an application.

d. Each certified applicant is responsible for forwarding a certified copy of the application and copies of all required documentation to the department within 6 months after certification by the Department of Agriculture and Consumer Services.

e. A refund approved pursuant to this paragraph must be made within 30 days after approval by the department.

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

g. The Department of Agriculture and Consumer Services shall ensure that the total amount of the exemptions authorized do not exceed the limits specified in subparagraph 2.

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

6. This paragraph expires July 1, 2016.

Section 3. Subsections (1), (2), (6), (7), and (8) of section 220.192, Florida Statutes, is amended to read:

220.192 Renewable energy technologies investment tax credit.—

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

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

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

(c) "Eligible costs" means~~:~~

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

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

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

~~3.~~ seventy-five percent of all capital costs, operation and maintenance costs, and research and development costs incurred between July 1, 2012, and July 1, 2016 ~~July 1, 2006, and June 30, 2010~~, up to a limit of $10 ~~$6.5~~ million per state fiscal year for all taxpayers, in connection with an investment in the production, storage, and distribution of biodiesel (B10-B100), ~~and~~ ethanol (E10-E100), and renewable fuel in the state, including the costs of constructing, installing, and equipping such technologies in the state. Gasoline fueling station pump retrofits for ethanol (E10-E100) distribution qualify as an eligible cost under this subparagraph. Each applicant is eligible to receive up to $1 million in tax credits.

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

(e) "Renewable fuel" means a fuel that has been approved by the United States Environmental Protection Agency, that is produced from biomass as defined in s. 366.91(2)(a), and that is

used to replace or reduce the quantity of fossil fuel present in a transportation fuel.

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

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

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

(6) TRANSFERABILITY OF CREDIT.—

(a) For tax years beginning on or after January 1, 2014 ~~January 1, 2009~~, any corporation or subsequent transferee allowed a tax credit under this section may transfer the credit, in whole or in part, to any taxpayer by written agreement

without transferring any ownership interest in the property generating the credit or any interest in the entity owning such property. The transferee is entitled to apply the credits against the tax with the same effect as if the transferee had incurred the eligible costs.

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

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

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

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

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

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

Section 4. Section 220.193, Florida Statutes, is amended to read:

220.193 Florida renewable energy production credit.—

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

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

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

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

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

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

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

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

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

(3) An annual credit against the tax imposed by this section shall be allowed to a taxpayer, based on the taxpayer's production and sale of electricity from a new or expanded Florida renewable energy facility. For a new facility, the credit shall be based on the taxpayer's sale of the facility's entire electrical production. For an expanded facility, the credit shall be based on the increases in the facility's electrical production that are achieved after May 1, 2012 ~~2006~~. Each applicant is eligible to receive up to $500,000 in tax credits.

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

(b) The credit may be claimed for electricity produced and

sold on or after January 1, 2013 ~~2007~~. Beginning in 2014 ~~2008~~ and continuing until 2017 ~~2011~~, each taxpayer claiming a credit under this section must first apply to the department by February 1 of each year for an allocation of available credit. The department, in consultation with the commission, shall develop an application form. The application form shall, at a minimum, require a sworn affidavit from each taxpayer certifying the increase in production and sales that form the basis of the application and certifying that all information contained in the application is true and correct.

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

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

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

(f)1. Tax credits that may be available under this section to an entity eligible under this section may be transferred

after a merger or acquisition to the surviving or acquiring entity and used in the same manner with the same limitations.

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

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

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

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

the credit allowable for the taxable year under this section.

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

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

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

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

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

Section 5. Section 255.257, Florida Statutes, is amended to read:

255.257 Energy management; buildings occupied by state

agencies.—

(1) ENERGY CONSUMPTION AND COST DATA.—Each state agency shall collect data on energy consumption and cost. The data gathered shall be on state-owned facilities and metered state-leased facilities that are used by the state and are 5,000 square feet or more of conditioned space ~~of 5,000 net square feet or more~~. These data will be used in the computation of the effectiveness of the state energy management plan and the effectiveness of the energy management program of each of the state agencies. Collected data shall be reported annually to the department in a format prescribed by the department.

(2) ENERGY MANAGEMENT COORDINATORS.—Each state agency, the Florida Public Service Commission, the Department of Military Affairs, and the judicial branch shall appoint a coordinator whose responsibility shall be to advise the head of the state agency on matters relating to energy consumption in facilities under the control of that head or in space occupied by the various units comprising that state agency, in vehicles operated by that state agency, and in other energy-consuming activities of the state agency. The coordinator shall implement the energy management program agreed upon by the state agency concerned and assist the department in the development of the State Energy Management Plan.

(3) CONTENTS OF THE STATE ENERGY MANAGEMENT PLAN.—The Department of Management Services, in coordination with the Department of Agriculture and Consumer Services, shall adopt rules and forms for the development of the ~~develop a~~ state energy management plan consisting of, but not limited to, the following elements:

(a) Data-gathering requirements;

(b) Standard and uniform benchmark requirements as a measure to evaluate the energy efficiency of state-owned and state-leased buildings;

(c) ~~(b)~~ Building energy audit procedures;

(d) ~~(c)~~ Standard and uniform data analysis and reporting procedures;

(e) ~~(d)~~ Employee energy education program measures;

(f) ~~(e)~~ Energy consumption reduction techniques;

(g) ~~(f)~~ Training program for state agency energy management coordinators; and

(h) ~~(g)~~ Guidelines for building managers.

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

(4) ADOPTION OF STANDARDS.—

(a) Each ~~All~~ state agency ~~agencies~~ shall adopt a standard and uniform statewide sustainable building rating system or use a national model green building code for all new buildings and renovations to existing buildings.

(b) A ~~No~~ state agency may not ~~shall~~ enter into new leasing agreements for office space that does not meet Energy Star building standards, except when the appropriate state agency head determines that no other viable or cost-effective alternative exists.

(c) Each ~~All~~ state agency ~~agencies~~ shall develop energy conservation measures and guidelines for new and existing office

space where state agencies occupy ~~more than~~ 5,000 square feet or more of conditioned space. These conservation measures shall focus on programs that may reduce energy consumption and, when established, provide a net reduction in occupancy costs.

Section 6. Paragraph (q) of subsection (2) of section 288.106, Florida Statutes, is amended to read:

288.106 Tax refund program for qualified target industry businesses.—

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

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

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

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

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

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

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

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

The term does not include any business engaged in retail industry activities; any electrical utility company as defined in s. 366.02(2); any phosphate or other solid minerals severance, mining, or processing operation; any oil or gas exploration or production operation; or any business subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation. Any business within NAICS code 5611 or 5614, office administrative services and business support services, respectively, may be considered a

target industry business only after the local governing body and Enterprise Florida, Inc., make a determination that the community where the business may locate has conditions affecting the fiscal and economic viability of the local community or area, including but not limited to, factors such as low per capita income, high unemployment, high underemployment, and a lack of year-round stable employment opportunities, and such conditions may be improved by the location of such a business to the community. By January 1 of every 3rd year, beginning January 1, 2011, the department, in consultation with Enterprise Florida, Inc., economic development organizations, the State University System, local governments, employee and employer organizations, market analysts, and economists, shall review and, as appropriate, revise the list of such target industries and submit the list to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 7. Section 366.94, Florida Statutes, is created to read:

366.94 Electric vehicle charging stations.—

(1) Providing electric vehicle charging service to the public is not the retail sale of electricity for the purposes of this chapter and the rates, terms, and conditions of electric vehicle charging services are not subject to regulation under this chapter regardless of the provider. This section does not affect the ability of an individual, business, or governmental entity to acquire, install, or use an electric vehicle charger for its own use for its own vehicle.

(2) The Florida Building Commission, in coordination with the Department of Agriculture and Consumer Services and the

Public Service Commission, shall develop rules to provide uniform standards for building and electric codes, local permitting, and the installation of electric vehicle charging stations. The development of these standards is expressly preempted to the state and any local governmental entity enforcing the subject areas of the standards established by this section must use the standards set forth pursuant to this section.

(3) The Department of Agriculture and Consumer Services shall adopt rules to provide definitions, methods of sale, labeling requirements, and price-posting requirements for electric vehicle charging stations in order to provide consistency for consumers and the industry.

(4) The Public Service Commission shall conduct a study of the effects of the charging stations on energy consumption in this state and the effects on the grid. The Public Service Commission shall also investigate the feasibility of using off-grid solar photovoltaic power as a source of electricity for electric vehicle charging stations.

(5) It is unlawful for a person to stop, stand, or park a vehicle that is not capable of using an electrical recharging station within any parking space specifically designated for charging an electric vehicle. If a law enforcement officer finds a motor vehicle in violation of this subsection, the officer or specialist shall charge the operator or other person in charge of the vehicle in violation with a noncriminal traffic infraction, punishable as provided in s. 316.008(4) or s. 318.18.

Section 8. Subsection (3) of section 403.519, Florida

Statutes, is amended to read:

403.519 Exclusive forum for determination of need.—

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

Section 9. Subsection (4) of section 581.083, Florida Statutes, is amended to read:

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

(4) A person may not cultivate a nonnative plant, algae, or blue-green algae, including a genetically engineered plant, algae, or blue-green algae ~~or a plant that has been introduced, for purposes of fuel production or purposes other than agriculture~~ in plantings greater in size than 2 contiguous acres, except under a special permit issued by the department through the division, which is the sole agency responsible for issuing such special permits. The ~~Such a~~ permit is ~~shall~~ not ~~be~~ required if the department determines, after consulting ~~in conjunction~~ with the Institute of Food and Agricultural Sciences at the University of Florida, that, based on experience or research data, the nonnative plant, algae, or blue-green algae does not pose a known threat of becoming an ~~is not~~ invasive species or a pest of plants or native fauna under conditions in this state, and if the department ~~and~~ subsequently exempts the plant by rule.

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

and destroying the plant that is the subject of the special permit and the basis for calculating or determining that estimate. If the applicant is a corporation, partnership, or other business entity, the applicant must also provide in the application the name and address of each officer, partner, or managing agent. The applicant shall notify the department within 10 business days <u>after</u> ~~of~~ any change of address or change in the principal place of business. The department shall mail all notices to the applicant's last known address.

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

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

(c) If the department:

1. Determines that the permitholder is no longer

maintaining or cultivating the plants subject to the special permit and has not removed and destroyed the plants authorized by the special permit;

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

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

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

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

(d) If, upon issuance by the department of an immediate final order to the permitholder, the permitholder fails to remove and destroy the plants subject to the special permit within 60 days after issuance of the order, or such shorter period as is designated in the order as public health, safety, or welfare requires, the department may enter the cultivated acreage and remove and destroy the plants that are the subject of the special permit. If the permitholder makes a written request to the department for an extension of time to remove and destroy the plants that demonstrates specific facts showing why the plants could not reasonably be removed and destroyed in the

applicable timeframe, the department may extend the time for removing and destroying plants subject to a special permit. The reasonable costs and expenses incurred by the department for removing and destroying plants subject to a special permit shall be reimbursed to the department by the permitholder within 21 days after the date the permitholder and the surety company or financial institution are served a copy of the department's invoice for the costs and expenses incurred by the department to remove and destroy the cultivated plants, along with a notice of administrative rights, unless the permitholder or the surety company or financial institution object to the reasonableness of the invoice. In the event of an objection, the permitholder or surety company or financial institution is entitled to an administrative proceeding as provided by chapter 120. Upon entry of a final order determining the reasonableness of the incurred costs and expenses, the permitholder has ~~shall have~~ 15 days after ~~following~~ service of the final order to reimburse the department. Failure of the permitholder to timely reimburse the department for the incurred costs and expenses entitles the department to reimbursement from the applicable bond or certificate of deposit.

(e) Each permitholder shall maintain for each separate growing location a bond or a certificate of deposit in an amount determined by the department, but not more ~~less~~ than 150 percent of the estimated cost of removing and destroying the cultivated plants. The bond or certificate of deposit may not exceed $5,000 per acre, unless a higher amount is determined by the department to be necessary to protect the public health, safety, and welfare or unless an exemption is granted by the department

based on conditions specified in the application which would preclude the department from incurring the cost of removing and destroying the cultivated plants and would prevent injury to the public health, safety, and welfare. The aggregate liability of the surety company or financial institution to all persons for all breaches of the conditions of the bond or certificate of deposit may not exceed the amount of the bond or certificate of deposit. The original bond or certificate of deposit required by this subsection must ~~shall~~ be filed with the department. A surety company shall give the department 30 days' written notice of cancellation, by certified mail, in order to cancel a bond. Cancellation of a bond does not relieve a surety company of liability for paying to the department all costs and expenses incurred or to be incurred for removing and destroying the permitted plants covered by an immediate final order authorized under paragraph (c). A bond or certificate of deposit must be provided or assigned in the exact name in which an applicant applies for a special permit. The penal sum of the bond or certificate of deposit to be furnished to the department by a permitholder in the amount specified in this paragraph must guarantee payment of the costs and expenses incurred or to be incurred by the department for removing and destroying the plants cultivated under the issued special permit. The bond or certificate of deposit assignment or agreement must be upon a form prescribed or approved by the department and must be conditioned to secure the faithful accounting for and payment of all costs and expenses incurred by the department for removing and destroying all plants cultivated under the special permit. The bond or certificate of deposit assignment or agreement must

include terms binding the instrument to the Commissioner of Agriculture. Such certificate of deposit shall be presented with an assignment of the permitholder's rights in the certificate in favor of the Commissioner of Agriculture on a form prescribed by the department and with a letter from the issuing institution acknowledging that the assignment has been properly recorded on the books of the issuing institution and will be honored by the issuing institution. Such assignment is irrevocable while a special permit is in effect and for an additional period of 6 months after termination of the special permit if operations to remove and destroy the permitted plants are not continuing and if the department's invoice remains unpaid by the permitholder under the issued immediate final order. If operations to remove and destroy the plants are pending, the assignment remains in effect until all plants are removed and destroyed and the department's invoice has been paid. The bond or certificate of deposit may be released by the assignee of the surety company or financial institution to the permitholder, or to the permitholder's successors, assignee, or heirs, if operations to remove and destroy the permitted plants are not pending and no invoice remains unpaid at the conclusion of 6 months after the last effective date of the special permit. The department may not accept a certificate of deposit that contains any provision that would give to any person any prior rights or claim on the proceeds or principal of such certificate of deposit. The department shall determine by rule whether an annual bond or certificate of deposit will be required. The amount of such bond or certificate of deposit shall be increased, upon order of the department, at any time if the department finds such increase to

be warranted by the cultivating operations of the permitholder. In the same manner, the amount of such bond or certificate of deposit may be decreased or removed when a decrease in the cultivating operations of the permitholder occurs or when research or practical field knowledge and observations indicate a low risk of invasiveness by the nonnative species ~~warrants such decrease~~. Factors that may be considered to decrease or remove the bond or certificate-of-deposit requirements include multiple years or cycles of successful large-scale contained cultivation; observation of plant, algae, or blue-green algae that do not escape from managed areas; or science-based evidence that established or proved adjusted cultivation practices provide a similar level of containment of the nonnative plant, algae, or blue-green algae. This paragraph applies to any bond or certificate of deposit, regardless of the anniversary date of its issuance, expiration, or renewal.

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

Section 10. The Department of Agriculture and Consumer

Services shall conduct a comprehensive statewide forest inventory analysis and study, using a geographic information system, to identify where available biomass is located, determine the available biomass resources, and ensure forest sustainability within the state. The department shall submit the results of the study to the President of the Senate, the Speaker of the House of Representatives, and the Executive Office of the Governor by July 1, 2013.

Section 11. The Office of Energy within the Department of Agriculture and Consumer Services, in consultation with the Public Service Commission, the Florida Building Commission, and the Florida Energy Systems Consortium, shall develop a clearinghouse of information regarding cost savings associated with various energy efficiency and conservation measures. The department shall post the information on its website by July 1, 2013.

Section 12. The Public Service Commission shall evaluate and prepare a report on the Florida Energy Efficiency and Conservation Act and determine if the act remains in the public interest. The evaluation must consider the costs to ratepayers, the incentives and disincentives associated with the provisions in the act, and if the programs create benefits without undue burden on the customer. The models and methods used to determine conservation goals must be specifically addressed in the report. The commission shall submit the report to the President of the Senate, the Speaker of the House of Representatives, and the Executive Office of the Governor by January 31, 2013.

Section 13. This act shall take effect July 1, 2012.