

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7147 PCB EUS 14-01 Department of Agriculture and Consumer Services

SPONSOR(S): Regulatory Affairs Committee; Energy & Utilities Subcommittee; Diaz, J.

TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 1044

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Energy & Utilities Subcommittee	12 Y, 1 N	Whittier	Keating
1) Agriculture & Natural Resources Appropriations Subcommittee	12 Y, 0 N	Lolley	Massengale
2) Regulatory Affairs Committee	16 Y, 0 N, As CS	Whittier	Hamon

SUMMARY ANALYSIS

The bill addresses the duties and responsibilities of the Department of Agriculture and Consumer Services (DACS) with respect to energy issues. Specifically, the bill does the following:

- Authorizes the Commissioner of Agriculture to appoint a representative to the Southern States Energy Board;
- Adds a representative of the Office of Energy within DACS to the Florida Building Commission;
- Clarifies that DACS must promote all forms of renewable energy, not simply solar;
- Clarifies that DACS must promote and provide reports and recommendations on both energy conservation and efficiency measures;
- Authorizes DACS to work in cooperation with the Florida Energy Systems Consortium;
- Authorizes DACS to post information on alternative fueling stations and electric vehicle charging stations on its website;
- Repeals the expired Solar Energy Systems Incentive Program and related cross-references;
- Repeals the expired Florida Energy Star Residential HVAC Rebate Program and related cross-references;

The bill does not appear to have a fiscal impact on state or local governments.

The bill may have a positive impact on the private sector by disseminating location and pricing information for alternative fuel and electric vehicle charging stations on DACS' website and may facilitate the use of vehicles utilizing different types of energy. Costs incurred as a result of posting on the website can be absorbed by DACS within existing resources.

HB 5001 provides an appropriation of \$47,212 in recurring general revenue funds for the annual dues to the Southern States Energy Board.

The bill has an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Southern States Energy Board (Sections 1 and 3)

Present Situation

The Southern States Energy Board (SSEB) is a non-profit interstate compact organization created by state law in 1960 and consented to by Congress¹ with a broad mandate to contribute to the economic and community well-being of the southern region.² Its mission is “to enhance economic development and the quality of life in the South through innovations in energy and environmental policies, programs and technologies.”³

Sixteen southern states and two territories comprise the SSEB: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, Puerto Rico, South Carolina, Tennessee, Texas, U.S. Virgin Islands, Virginia, and West Virginia. Each jurisdiction is represented by the Governor and a Legislator from the House and Senate. A Governor serves as the chair and legislators serve as vice-chair and treasurer. Ex-officio non-voting SSEB members include a federal representative appointed by the President of the United States, the Southern Legislative Conference Energy and Environment Committee Chair, and the SSEB’s executive director, who serves as secretary.⁴

According to its website, the SSEB pursues its mission through the creation of programs in the fields of energy and environmental policy research, development and implementation, science and technology exploration, and related areas of concern. The SSEB “serves its members directly by providing timely assistance designed to develop effective energy and environmental policies and programs and represents its members before governmental agencies at all levels.”⁵

The SSEB’s long-term goals are the following:

- Perform essential services that provide direct scientific and technical assistance to state governments;
- Develop, promote, and recommend policies and programs on energy, environment, and economic development that encourage sustainable development;
- Provide technical assistance to executive and legislative policy-makers and the private sector in order to achieve synthesis of energy, environment, and economic issues that ensure energy security and supply;
- Facilitate the implementation of energy and environmental policies between federal, state, and local governments and the private sector;
- Sustain business development throughout the region by eliminating barriers to the use of efficient energy and environmental technologies; and
- Support improved energy efficient technologies that pollute less and contribute to a clean global environment while protecting indigenous natural resources for future generations.⁶

Core funding is comprised of appropriations from its 18 member jurisdictions, and each member’s share of support is determined by a formula written into the original Southern States Energy Compact

¹ Public Laws 87-563 and 92-440.

² Southern States Energy Board website found at <http://www.sseb.org/about/> (last visited on March 16, 2014).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

(Compact). The formula uses relative state population, per capita, income and equal shares as factors. The SSEB has not requested an increase in state appropriations since 1987.⁷

Section 377.711, F.S., establishes Florida as a member of the Compact. Section 377.712, F.S., provides for Florida's participation on the SSEB, by requiring the Governor, the President of the Senate, and the Speaker of the House of Representatives to each appoint one member to the SSEB.⁸ Section 377.6015, F.S., authorizes the Department of Agriculture and Consumer Services (DACS) to represent Florida in the Southern States Energy Compact. Statutes also authorize departments, agencies, and officers of the state and its subdivisions to cooperate with the SSEB if the activities have been approved by either the Governor or the Florida Department of Health.⁹

Effect of Proposed Changes

The bill gives authority to the Commissioner of Agriculture to serve as a member of the SSEB or to appoint a deputy or assistant from DACS to serve. This authority replaces existing language, removed in the bill, which authorized DACS to represent Florida in the Compact. This change provides greater consistency with the provisions of s. 377.712, F.S., which specify Florida's participation in the SSEB. The bill also replaces reference to the Department of Health with reference to DACS.

Office of Energy (Section 2)

Present Situation

In response to the energy crisis in the 1970s, the State Energy Office was established by the Legislature in 1975.¹⁰ Prior to becoming a part of DACS, it has been housed in the Department of Administration, the Department of Community Affairs, the Department of Environmental Protection, and the Executive Office of the Governor. In 2006, the Legislature established the Florida Energy Commission, as an arm of the Legislature, to develop recommendations for legislation to establish a state energy policy.¹¹

During the 2007 Legislative Session, the issue of fragmentation of energy policy governance was raised. At that time, there were many public sector entities playing a role in developing, implementing, or coordinating some aspect of Florida's energy policies: the State Energy Office within the Department of Environmental Protection; the Department of Community Affairs; the Florida Building Commission; DACS; the Department of Management Services; the Department of Financial Services; the Public Service Commission; the Florida Energy Commission; and a host of colleges and universities.

In 2008,¹² the Legislature established the Florida Energy and Climate Commission (FECC) as the state entity responsible for recommending, implementing, and coordinating Florida's energy policy and for coordinating all federal energy programs delegated to the state. The measure, in effect, merged the Department of Environmental Protection's Florida Energy Office with the Legislature's Florida Energy Commission and administratively placed the new entity within the Executive Office of the Governor. In 2009, the Senate failed to confirm the membership of the FECC.

In 2011,¹³ the Legislature abolished the FECC and transferred all of its powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts from the Executive Office of the Governor to the Office of Energy within DACS.

⁷ *Id.*

⁸ Currently, the Florida members are Governor Rick Scott, Senator Anitere Flores, and Representative Jose Felix Diaz.

⁹ Section 377.712, F.S.

¹⁰ Chapter 75-256, L.O.F.

¹¹ Former s. 377.901(5), F.S.

¹² Section 46, ch. 2008-227, L.O.F.

¹³ Chapter 2011-142, L.O.F.

Among its responsibilities, the Office of Energy administers tax incentive programs, administers the provisions of the Florida Energy and Climate Protection Act, works cooperatively with other state entities regarding energy-related matters, and provides energy policy recommendations to the Legislature.¹⁴

The DACS provides an annual report to the Governor and the Legislature reflecting its activities and its policy recommendations. The report must include a report from the Public Service Commission (PSC) addressing, among other things, ongoing energy conservation programs and must include recommendations for energy conservation programs in the state. Further, DACS must promote energy conservation in all energy use sectors throughout the state.¹⁵

The terms “energy conservation” and “energy efficiency” are often used interchangeably, but have distinct meanings. Energy conservation is generally defined as reduction in total levels of energy consumption.¹⁶ An example is lowering the thermostat. Energy efficiency is generally defined as achieving more services from the same energy input or the same services from less energy input.¹⁷ An example is replacing an incandescent light bulb with an LED light bulb. Programs addressed by the PSC include both energy conservation and energy efficiency measures.

The DACS must also promote the development and use of renewable energy resources. Current law requires it to do so by: establishing goals and strategies for increasing the use of solar energy in the state; aiding and promoting the commercialization of solar energy technology; identifying barriers to greater use of solar energy systems in this state; and investigating opportunities for solar electric vehicles and other solar energy manufacturing, distribution, installation, and financing efforts which will enhance Florida’s position as a leader in solar energy research, development, and use.¹⁸

The Florida Energy Systems Consortium (consortium) promotes collaboration among experts in the State University System for the purposes of sharing energy-related expertise and assisting in the development and implementation of a comprehensive, long-term, environmentally compatible, sustainable, and efficient energy strategic plan for the state. The consortium is to focus on the research and development of innovative energy systems that will lead to alternative energy strategies, improved energy efficiencies, and expanded economic development for the state.¹⁹ The consortium consists of all of the state universities and is administered at the University of Florida by a director appointed by the President of the University of Florida. The director reports to DACS.²⁰

Effect of Proposed Changes

For decades, the state has promoted attainment of energy conservation and energy efficiency. The bill clarifies that DACS’ duties include making recommendations, collecting and disseminating information, and developing and conducting educational and training programs regarding energy efficiency in addition to conservation. The bill captures both “energy conservation” and “energy efficiency” programs to reflect the broad array of programs addressed by the PSC and indicates that DACS’ recommendations and promotional efforts must address both. The bill clarifies that DACS’ efforts to promote renewable energy resources not be limited to solar energy technologies, but include all renewable resources.

The bill adds the consortium to the list of entities that the Office of Energy is to work with in cooperation.

Solar Energy Systems Incentive Program and Florida Energy Star Residential HVAC Rebate Program (Sections 4, 5, 6, 9, and 10)

¹⁴ Sections 377.6015 and 377.703, F.S.

¹⁵ Section 377.703(2)(f) and (i), F.S.

¹⁶ *Florida’s Electric Utilities: A Reference Guide*, Revised 1994 Edition, p. 35.

¹⁷ See <http://www.iea.org/topics/energyefficiency/>

¹⁸ Section 377.703(2)(h), F.S.

¹⁹ Section 1004.648, F.S.

²⁰ *Id.*

The Legislature created the Solar Energy System Incentives Program (Solar Rebate Program or program) in 2006 to encourage homeowners and businesses to purchase and install solar energy systems. Rebates ranged from \$100 for solar pool heaters to up to \$100,000 for solar energy systems for businesses. Systems installed from July 1, 2006, to June 30, 2010, were eligible for limited rebates on the purchase and installation costs, subject to legislative appropriation.

Starting in 2006, the Legislature appropriated more than \$25 million,²¹ over the course of the program, in funding for the Solar Rebate Program. However, the program proved more popular than anticipated and funds were depleted. A backlog of more than \$52 million in unpaid rebate applications had accumulated as of October 2010.

In August 2010, the FECC created the Florida Energy Star Residential HVAC Rebate Program (HVAC Rebate Program) in accordance with s. 377.807, F.S. The program was intended to provide \$1,500 rebates for the purchase and installation of eligible HVAC systems and was to commence August 30, 2010, and terminate on December 31, 2010, or when funds were depleted. The FECC announced the program in August 2010 without having authorized funding. The FECC sought funding through the Legislative Budget Commission (LBC). As the funding transfer request was not lawfully permissible, however, no action was taken by the LBC. Consequently, the FECC suspended the program and announced that all applications were pending legislative action.²²

In November 2010 during Special Session A, the Legislature passed HB 15-A, which provided for payment of HVAC rebates and provided that any remaining funds, after processing payment of all approved HVAC rebates, be used to proportionally pay all approved, but unpaid, rebate applications in the Solar Rebate Program backlog. After the funds were exhausted, both programs were closed. New installations and purchases have not been eligible for rebates under those programs since 2010.

Effect of Proposed Changes

The Solar Rebate Program and the HVAC Rebate Program are no longer in existence and all of the qualified applicants have received a rebate. The bill removes the expired programs and their associated definitions and cross-references from the statutes.

²¹ The Legislature provided the following funding for the program:

- FY 2006-07 \$2.5 million in General Revenue;
- FY 2007-08 \$3.5 million in General Revenue;
- FY 2008-09 \$5.0 million in General Revenue; and
- FY 2009-10 \$14.4 million in federal ARRA 2009 funds

²² House Staff Analysis for HB 15-A (November 16, 2010) (on file with the Energy & Utilities Subcommittee).

Alternative Fueling Stations and Electric Vehicle Charging Stations (Section 7)

Present Situation

Over the last decade, the state has adopted incentives for alternative-fuel vehicles. Most recently, in 2013, the Legislature created a program for natural gas fuel fleet conversions that began January 1, 2014. Administered by DACS, the state offers a rebate for up to 50 percent of the eligible costs of a natural gas fuel fleet vehicle or bi-fuel operating system placed into service on or after July 1, 2013.²³ An applicant is eligible to receive a maximum rebate of \$25,000 per vehicle up to a total of \$250,000 per applicant per fiscal year, on a first-come, first-served basis.

Electric Vehicles (EVs) are becoming more competitive as a result of tax credits, the introduction of gasoline-electric hybrid technology, and improved batteries. As the technology becomes more established, EVs may become a more realistic alternative to gasoline and diesel-fueled vehicles.²⁴

Estimates of the number of EVs in Florida, as provided by utilities and other organizations, ranged from approximately 1,000 to 6,000 in 2012²⁵ and are assumed to be higher in 2014. Because no agency tracks these figures formally, it is difficult to pinpoint the number more precisely, and future projections are even more speculative. The number of installed EV charging stations in the state is currently estimated at more than 400.²⁶

Currently, there are alternative fuel and EV charging station locators available online, such as <http://floridagas.org/ForVehicles/FuelStationMap.aspx> and <http://www.afdc.energy.gov/locator/stations>, however, no source appears to provide a truly exhaustive list of alternative fuel or public charging stations.²⁷

Effect of Proposed Changes

The bill creates s. 377.815, F.S., which authorizes DACS to post on its website information relating to alternative fueling stations and EV charging stations.

It defines the term “alternative fuel” to mean “nontraditional transportation fuel, such as pure methanol, ethanol, and other alcohols; blends of 85 percent or more of alcohol with gasoline; natural gas and liquid fuels domestically produced from natural gas; liquefied petroleum gas; coal-derived liquid fuels; hydrogen; electricity; pure biodiesel; fuels, other than alcohol, derived from biological materials; and P-series fuels.”

Specifically, the bill specifies that an owner or operator of an alternative fueling station that is available in Florida may report any of the following information to DACS to be posted on its website:

- The type of alternative fuel available.
- The station's name, address, or location.
- The fees or costs associated with the alternative fuel that is available for purchase.

²³ Ch. 2013-198, L.O.F

²⁴ Florida Public Service Commission, *Report on Electric Vehicle Charging*, p. 1 (December 2012).

²⁵ *Id.*

²⁶ Department of Agriculture and Consumer Services, Office of Energy, website:

<http://www.freshfromflorida.com/Energy/Electric-Vehicle-Charging-Stations-Infrastructure> (last viewed on March 17, 2014).

²⁷ *Id.*

The owner or operator of an electric vehicle charging station that is available in Florida may report any of the following information to DACS to be posted on its website:

- The station's name, address, or location.
- The fees or costs, if any, associated with the electric vehicle charging services provided by the station.

Florida Building Commission (Section 8)

Present Situation

The Florida Building Commission (ss. 553.74 - 553.77, F.S.) is a 26-member technical body responsible for the development, maintenance, and interpretation of the Florida Building Code. The Florida Building Commission also approves products for statewide acceptance and administers the Building Code Training Program. Members are appointed by the Governor and confirmed by the Senate and include the following design professionals, contractors, and government experts in the various disciplines covered by the code:

- One architect registered to practice in this state and actively engaged in the profession.
- One structural engineer registered to practice in this state and actively engaged in the profession.
- One air-conditioning or mechanical contractor certified to do business in this state and actively engaged in the profession.
- One electrical contractor certified to do business in this state and actively engaged in the profession.
- One member from fire protection engineering or technology who is actively engaged in the profession.
- One general contractor certified to do business in this state and actively engaged in the profession.
- One plumbing contractor licensed to do business in this state and actively engaged in the profession.
- One roofing or sheet metal contractor certified to do business in this state and actively engaged in the profession.
- One residential contractor licensed to do business in this state and actively engaged in the profession.
- Three members who are municipal or district codes enforcement officials, one of whom is also a fire official.
- One member who represents the Department of Financial Services.
- One member who is a county codes enforcement official.
- One member of a Florida-based organization of persons with disabilities or a nationally chartered organization of persons with disabilities with chapters in this state.
- One member of the manufactured buildings industry who is licensed to do business in this state and is actively engaged in the industry.
- One mechanical or electrical engineer registered to practice in this state and actively engaged in the profession.
- One member who is a representative of a municipality or a charter county.
- One member of the building products manufacturing industry who is authorized to do business in this state and is actively engaged in the industry.
- One member who is a representative of the building owners and managers industry who is actively engaged in commercial building ownership or management.
- One member who is a representative of the insurance industry.
- One member who is a representative of public education.
- One member who is a swimming pool contractor licensed to do business in this state and actively engaged in the profession.
- One member who is a representative of the green building industry and who is a third-party commission agent, a Florida board member of the United States Green Building Council or

Green Building Initiative, a professional who is accredited under the International Green Construction Code (IGCC), or a professional who is accredited under Leadership in Energy and Environmental Design (LEED).

- One member who is a representative of a natural gas distribution system and who is actively engaged in the distribution of natural gas in this state.
- One member who shall be the chair.

The DACS, under the Florida Energy Efficiency and Conservation Act, is required, among other duties, to be a party in the proceedings to adopt energy efficiency and conservation goals and is to file with the PSC comments on those proposed goals,²⁸ including an analysis of the impact of state and local building codes and appliance efficiency standards on the need for utility-sponsored conservation and energy efficiency measures and programs.²⁹

Effect of Proposed Changes

The bill adds a representative of the Office of Energy within DACS to the Florida Building Commission. The bill encourages the Commissioner of Agriculture to recommend a list of candidates for consideration.

B. SECTION DIRECTORY:

Section 1. Amends s. 377.6015, F.S., removing the power of the Department of Agricultural and Consumer Services to represent the state in the Southern States Energy Compact.

Section 2. Amends s. 377.703, F.S., expanding the promotion of the development and use of renewable energy resources from goals related to solar energy to renewable energy in general.

Section 3. Amends s. 377.712, F.S., authorizing the Commissioner of Agriculture to appoint a member to the Southern States Energy Board.

Section 4. Amends s. 377.801, F.S., conforming a cross-reference.

Section 5. Amends s. 377.802, F.S., revising the purpose of the Florida Energy and Climate Protection Act.

Section 6. Amends s. 377.803, F.S., conforming provisions to changes made by the Act.

Section 7. Creates s. 377.815, F.S., authorizing the Department of Agriculture and Consumer Services to post on its website information relating to alternative fueling stations or electric vehicle charging stations and defining the term "alternative fuel."

Section 8. Amends s. 553.74, F.S., providing for the appointment of a representative of the Office of Energy within the Department of Agriculture and Consumer Services to the Florida Building Commission.

Section 9. Repeals s. 377.806, F.S., relating to the Solar Energy System Incentives Program.

Section 10. Repeals s. 377.807, F.S., relating to the Energy-Efficient Appliance Rebate Program.

Section 11. Provides an effective date of July 1, 2014.

²⁸ In accordance with s. 366.82(2), F.S., the PSC shall adopt appropriate goals for increasing the efficiency of energy consumption and increasing the development of demand-side renewable energy systems, specifically including goals designed to increase the conservation of expensive resources, such as petroleum fuels, to reduce and control the growth rates of electric consumption, to reduce the growth rates of weather-sensitive peak demand, and to encourage development of demand-side renewable energy resources.

²⁹ Section 366.82(5), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill authorizes DACS to post on its website information relating to alternative fueling stations and EV charging stations. Staff of the Agriculture & Natural Resources Appropriations Subcommittee has determined that costs associated with posting this information on the website can be absorbed within DACS' existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Having access to location and pricing information for alternative fuel and electric vehicle charging stations may facilitate the use of vehicles utilizing these types of energy.

D. FISCAL COMMENTS:

HB 5001 provides an appropriation of \$47,212 in recurring general revenue funds for the annual dues to the SSEB.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 10, 2014, the Regulatory Affairs Committee adopted an amendment that revises the proposed process for appointment of a representative of the Office of Energy within DACS to the Florida Building Commission and passed the bill favorably with committee substitute.

This analysis is drafted to the committee substitute.