

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Communications, Energy, and Public Utilities Committee

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BILL: SB 238

INTRODUCER: Senator Evers

SUBJECT: Florida Renewable Fuel Standard Act

DATE: November 2, 2011      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Willar	Carter	CU	<b>Favorable</b>
2.			CM	
3.				
4.				
5.				
6.				

**I. Summary:**

The bill repeals the Florida Renewable Fuel Standard Act with its requirement that, with stated exemptions, on and after December 31, 2010, all gasoline sold or offered for sale in the State of Florida by a terminal supplier, importer, blender, and wholesaler must contain, at a minimum, 10 percent of agriculturally derived, denatured ethanol fuel by volume.

The bill substantially amends section 206.43, and repeals the following sections, of the Florida Statutes: 526.201, 526.202, 526.203, 526.204, 526.205, 526.206, and 526.207.

**II. Present Situation:**

The State Legislature in 2008 determined that it is vital to the public interest and to the state's economy to establish a market and the necessary infrastructure for renewable fuels in this state by requiring that all gasoline offered for sale in this state include a percentage of agriculturally derived, denatured ethanol. The Legislature further found that the use of renewable fuel reduces greenhouse gas emissions and dependence on imports of foreign oil, improves the health and quality of life for Floridians, and stimulates economic development and the creation of a sustainable industry that combines agricultural production with state-of-the-art technology.<sup>1</sup> The Florida Renewable Fuel Standard Act was passed in 2008<sup>2</sup> requiring all gasoline sold or offered for sale in Florida by a terminal supplier, importer, blender, or wholesaler to contain 9 to 10

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<sup>1</sup> <http://www.flsenate.gov/Laws/Statutes/2011/526.202>

<sup>2</sup> 2008 HB 7135 <http://laws.flrules.org/2008/227>

percent of agriculturally-derived denatured ethanol fuel by volume. It also provided a list of fuel sold or used for specified purposes that is exempt from the requirements.<sup>3</sup>

According to a 2008 article in the St. Petersburg Times, at that point the State of Florida had spent \$50 million on ethanol production and research, including at least \$13 million for projects that would use water such as tree trimmings and citrus peels and \$20 million to a University of Florida project with Florida Crystals to make ethanol from sugar bagasse. So far, the projects underway in Florida have yet to produce a drop.<sup>4</sup>

The first plant proposed in Florida, U.S. EnviroFuels plan in Tampa, drew opposition when the local firm building the factory put in a request for 400,000 gallons a day of city water, which would have made the facility one of the city's top ten water consumers overnight at a time when Florida was suffering from a prolonged drought and rivers and lakes were at record lows.<sup>5</sup>

Since then, several Florida ethanol plans have been announced. Construction began in middle February, 2011, on the first ethanol plant to break ground in Florida. The plant is a joint venture between INEOS Bio and New Planet Energy. It is expected to be the first advanced waste-to-fuel biorefinery in the U.S., with expected annual ethanol production of as much as 8 million gallons and more than 6 megawatts of power from local yard, vegetative and household waste. Federal and state grants are funding the project. The company received a \$2.5 million Florida Farm-to-Fuel grant and a \$50 million federal grant in 2009. Recently, they have received a conditional commitment for a \$75 million loan guarantee from the U.S. Department of Agriculture. Other proposed Florida ethanol projects are:

- Vercipia Biofuels, owned by BP, plans to build in highland County; and
- Fort Lauderdale based Renewable Fuels, LLC., and plans to build three sweet-sorghum- to-ethanol plants in South Florida.<sup>6</sup>

Since 2010, the United States annual ethanol production has accounted for 13.23 billion gallons, representing 36 million gallons a day.<sup>7</sup> Florida currently produces none of its ethanol used in the State's blended fuel, but has a few ethanol production plants in construction. Since 2008 Florida has appropriated \$50 million to these ethanol projects, and by 2017 Florida estimates an annual ethanol production of 200 million gallons.<sup>8</sup> Florida imported about 505 million gallons of blended ethanol gasohol in July 2011. The Florida Department of Revenue (DOR) estimates that number is close to 100 percent due to situations when a taxpayer reports sales of gasoline when in actuality they sold gasohol.<sup>9</sup> In the last fiscal year 8.2 Billion gallons of gasoline and 1.4 Billion gallons of diesel fuel were sold in Florida.<sup>10</sup> Highlands County's two ethanol projects estimated building costs at \$170 million, and 60 high-paying jobs would be created, along with 480 indirect jobs in agriculture.<sup>11</sup>

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<sup>3</sup> [http://energy.senate.gov/public/\\_files/RL342941.pdf](http://energy.senate.gov/public/_files/RL342941.pdf)

<sup>4</sup> [http://www.sptimes.com/2008/03/02/Business/Are\\_Florida\\_ethanol\\_p.shtml](http://www.sptimes.com/2008/03/02/Business/Are_Florida_ethanol_p.shtml)

<sup>5</sup> <http://www.economist.com/node/10766882>

<sup>6</sup> <http://basicfuels.com/2011/02/first-ethanol-plant-comes-to-vero-beach-florida/>

<sup>7</sup> <http://www.ethanolrfa.org/news/entry/2010-annual-ethanol-production-13.23-billion-gallons/>

<sup>8</sup> [http://www.sptimes.com/2008/03/02/Business/Are\\_Florida\\_ethanol\\_p.shtml](http://www.sptimes.com/2008/03/02/Business/Are_Florida_ethanol_p.shtml)

<sup>9</sup> Email correspondence with Department of Revenue staff

<sup>10</sup> <http://dor.myflorida.com/dor/taxes/fuel/>

<sup>11</sup> <http://www2.highlandstoday.com/content/2011/oct/05/051547/ethanol-plant-touts-60-new-jobs/>

### III. Effect of Proposed Changes:

**Section 1** repeals sections 526.201, 526.202, 526.203, 526. 204, 526.205, 526, 206, and 526.207 of the Florida Statutes, removing: the act title,<sup>12</sup> legislative findings regarding renewable fuel,<sup>13</sup> renewable fuel standard exemptions, including definitions regarding “blended gasoline” requirements as a mixture of 90 to 91 percent gasoline and 9 to 10 percent ethanol by volume,<sup>14</sup> waivers and suspensions,<sup>15</sup> the enforcement on terminal suppliers, importers, blenders, or wholesalers that sell or distribute, or offer for sale or distribution of gasoline which fails to meet the requirements of this Act,<sup>16</sup> the provisions authorizing the Department of Revenue and the Department of Agriculture and Consumer Services (DACS) to adopt rules in implementing provision of this Act,<sup>17</sup> and the requirement that the DACS conduct a study to evaluate and recommend the life-cycle greenhouse gas emissions associated with all renewable fuels.<sup>18</sup>

**Section 2** amends s. 206.43(2), F.S., to make a conforming change, deleting from this section the language “Each terminal supplier, importer, blender, and wholesaler shall also include in the report to the department the number of gallons of blended and unblended gasoline, as defined in s. 526.203, sold.”

**Section 3** provides that the bill takes effect July 1, 2012.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

<sup>12</sup> <http://www.flsenate.gov/Laws/Statutes/2011/526.201>

<sup>13</sup> <http://www.flsenate.gov/Laws/Statutes/2011/526.202>

<sup>14</sup> <http://www.flsenate.gov/Laws/Statutes/2011/526.203>

<sup>15</sup> <http://www.flsenate.gov/Laws/Statutes/2011/526.204>

<sup>16</sup> <http://www.flsenate.gov/Laws/Statutes/2011/526.205>

<sup>17</sup> <http://www.flsenate.gov/Laws/Statutes/2011/526.206>

<sup>18</sup> <http://www.flsenate.gov/Laws/Statutes/2011/526.207>

**B. Private Sector Impact:**

Currently there are no working ethanol production plants in Florida, but there are plants under construction. The private sector could see a loss in market production if mandates are removed. This is, however, uncertain. According to DACS, the practical impact of the bill is uncertain because the 2007 Energy Independence and Security Act (EISA) requirements remain in place and effectively increase the use of ethanol.<sup>19</sup> The 2007 EISA Renewable Fuel Standards require 9 billion gallons in 2008 and 36 billion gallons in 2022, which in turn could constitute a bigger market for ethanol resulting in higher demand for the product in the long run. Federal Environmental Protection Agency (EPA) emissions control requirements also may encourage expanded use of ethanol. The EPA requires reduced exhaust emissions of carbon monoxide, which can be accomplished by the addition of ethanol, which contains 35 percent oxygen by weight and promotes more complete combustion of the fuel.

**C. Government Sector Impact:**

The Department of Agriculture and Consumer Services do not anticipate any appreciable effect to state revenues if the bill were to pass.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>19</sup> Email correspondence with DACS Staff