The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

COMMUNICATIONS, ENERGY, AND PUBLIC UTILITIES
Senator Benacquisto, Chair
Senator Smith, Vice Chair

MEETING DATE: Monday, March 28, 2011
TIME: 1:00 —3:00 p.m.
PLACE: *Toni Jennings Committee Room,* 110 Senate Office Building

MEMBERS: Senator Benacquisto, Chair; Senator Smith, Vice Chair; Senators Altman, Bogdanoff, Braynon, Diaz de la Portilla, Evers, Fasano, Flores, Joyner, Lynn, Margolis, Negron, and Sachs

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
	Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointments to the offices indicated.		
	Florida Public Service Commission		
1	Balbis, Eduardo E. (West Palm Beach)	01/01/2015	
2	Brise, Ronald A. (North Miami)	01/01/2014	
3	Brown, Julie I. (Tampa)	01/01/2015	
4	Graham, Art (Jacksonville Beach)	01/01/2014	

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	**SPB 7082**	Renewable Energy; Expresses the legislative intent to revise laws relating to renewable energy.	

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Amended
2020

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Kurt S. Browning, Secretary of State,
do hereby certify that

Eduardo E. Balbis

is duly appointed a member of the

Florida Public Service Commission

for a term beginning on the
Fourth day of February, A.D., 2011,
until the First day of January, A.D., 2015
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the Eighth day of February, A.D., 2011.

GREAT SEAL OF THE STATE OF FLORIDA
IN GOD WE TRUST

Secretary of State

DSDE 99 (3/03)

If photocopied or chemically altered, the word "VOID" will appear.
"State of Florida" appears in small letters across the face of this 8½ x 11" document.
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RICK SCOTT
GOVERNOR

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2011 FEB -7 PM 2:55

DEPARTMENT OF STATE
DIVISION OF ELECTIONS

February 4, 2011

Mr. Kurt S. Browning, Secretary
Department of State
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Browning:

Please be advised I have made the following reappointment under the provisions of Section 350.01, Florida Statutes:

Mr. Eduardo E. Balbis
2540 Shumard Oak Boulevard
Tallahassee, Florida 32311

as a member of the Florida Public Service Commission, subject to confirmation by the Senate. This appointment is effective February 4, 2011, for a term ending January 1, 2015.

Sincerely,

Rick Scott
Governor

RS/lm

THE CAPITOL
TALLAHASSEE, FLORIDA 32399 • (850) 488-2272 • FAX (850) 922-4292

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2020

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Kurt S. Browning, Secretary of State,
do hereby certify that

Ronald A. Brise

is duly appointed a member of the

Florida Public Service Commission

for a term beginning on the
Fourth day of February, A.D., 2011,
until the First day of January, A.D., 2014
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

GREAT SEAL OF THE STATE OF FLORIDA
IN GOD WE TRUST

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the Eighth day of February, A.D., 2011.

Secretary of State

DSDE 99 (3/03)

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RICK SCOTT
GOVERNOR

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STATE
DIVISION OF ELECTIONS

February 4, 2011

Mr. Kurt S. Browning, Secretary
Department of State
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Browning:

Please be advised I have made the following reappointment under the provisions of Section 350.01, Florida Statutes:

Mr. Ronald A. Brise
2540 Shumard Oak Boulevard
Tallahassee, Florida 32311

as a member of the Florida Public Service Commission, subject to confirmation by the Senate. This appointment is effective February 4, 2011, for a term ending January 1, 2014.

Sincerely,

Rick Scott
Governor

RS/lm

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Amended
2020

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Kurt S. Browning, Secretary of State,
do hereby certify that

Julie I. Brown

is duly appointed a member of the

Florida Public Service Commission

for a term beginning on the
Fourth day of February, A.D., 2011,
until the First day of January, A.D., 2015
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the Eighth day of February, A.D., 2011.

GREAT SEAL OF THE STATE OF FLORIDA
IN GOD WE TRUST

Secretary of State

DSDE 99 (3/03)

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RICK SCOTT
GOVERNOR

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2011 FEB -7 PM 2:55
DEPARTMENT OF STATE
DIVISION OF ELECTIONS

February 4, 2011

Mr. Kurt S. Browning, Secretary
Department of State
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Browning:

Please be advised I have made the following reappointment under the provisions of Section 350.01, Florida Statutes:

Mrs. Julie I. Brown
2540 Shumard Oak Boulevard
Tallahassee, Florida 32311

as a member of the Florida Public Service Commission, subject to confirmation by the Senate. This appointment is effective February 4, 2011, for a term ending January 1, 2015.

Sincerely,

Rick Scott
Governor

RS/lm

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TALLAHASSEE, FLORIDA 32399 • (850) 488-2272 • FAX (850) 922-4292

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2020

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Kurt S. Browning, Secretary of State,
do hereby certify that

Art Graham

is duly appointed a member of the

Florida Public Service Commission

for a term beginning on the
Fourth day of February, A.D., 2011,
until the First day of January, A.D., 2014
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the Eleventh day of February, A.D., 2011.

Secretary of State

DSDE 99 (3/03)

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The original document has a reflective line mark in paper. Hold at an angle to view when checking.

RICK SCOTT
GOVERNOR

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DEPARTMENT OF STATE
DIVISION OF ELECTIONS

February 4, 2011

Mr. Kurt S. Browning, Secretary
Department of State
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Browning:

Please be advised I have made the following reappointment under the provisions of Section 350.01, Florida Statutes:

Mr. Art L. Graham
2540 Shumard Oak Boulevard
Tallahassee, Florida 32311

as a member of the Florida Public Service Commission, subject to confirmation by the Senate. This appointment is effective February 4, 2011, for a term ending January 1, 2014.

Sincerely,

Rick Scott
Governor

RS/lm

127136

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Communications, Energy, and Public Utilities (Fasano) recommended the following:

Senate Amendment (with title amendment)

Between lines 352 and 353
insert:

Section 4. Section 366.93, Florida Statutes, is repealed.

================= T I T L E A M E N D M E N T ================

And the title is amended as follows:

Between lines 17 and 18
insert:

repealing s. 366.93, F.S., relating to cost recovery for the siting, design, licensing, and construction of

127136

nuclear and integrated gasification combined cycle power plants;

128798

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Communications, Energy, and Public Utilities (Benacquisto) recommended the following:

Senate Amendment

Delete line 440
and insert:
(b) The utility may recover all reasonable and prudently

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.)

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

BILL: SPB 7082

INTRODUCER: Communications, Energy, and Public Utilities

SUBJECT: Energy

DATE: March 24, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Carter	CU	**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

The bill contains provisions relating to renewable energy, energy conservation, and economic development. In the short term, it allows an investor-owned utility to recover the costs of renewable energy projects. If a utility chooses to do so, at least twenty-five percent of the total renewable energy capacity must be from renewable energy resources other than solar energy. Total costs for a utility in any calendar year cannot exceed two percent of the utility's total revenue from retail sales of electricity for the calendar year 2010. Each utility receiving cost recovery must annually report on the costs and benefits of the projects, including the number of jobs created.

For the long term, the bill establishes a process for creating a state energy resources plan which will incorporate renewable energy into the existing planning process and electricity generation fleet in a strategic and economical way.

The bill also addresses energy conservation, requiring each public utility to conduct a free energy audit of the business structures of each of commercial customer within its service territory and requiring that the Department of Management Services develop and implement a prioritized list of buildings on which to have an energy audit and economical, energy-saving retrofits done.

As to economic development, the bill abolishes the Florida Energy and Climate Commission and statutorily creates an independent Florida Energy Office, which is not only to have all of the current FECC duties, but also is to market the state as a location for energy-related investment, businesses, and research and development and to assist those interested in relocating in the state.

The bill takes effect July 1, 2011.

The bill amends the following sections of the Florida Statutes: 366.02, 366.82, 255.252, 366.92, and 377.6015. It also creates section 366.95 of the Florida Statutes.

II. Present Situation:

Renewable energy, pricing, and cost recovery

Currently, electricity produced by use of renewable energy technology costs more than that produced by traditional means. Any additional value renewable energy has over that produced by traditional means is due to a societal benefit of having electricity produced by use of renewable energy instead of the traditional fuels and technologies. The current statutory statements relating to societal benefits of renewable energy are:

- The Legislature finds that it is in the public interest to promote the development of renewable energy resources in this state. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies.[1]
- It is the intent of the Legislature to promote the development of renewable energy; protect the economic viability of Florida's existing renewable energy facilities; diversify the types of fuel used to generate electricity in Florida; lessen Florida's dependence on natural gas and fuel oil for the production of electricity; minimize the volatility of fuel costs; encourage investment within the state; improve environmental conditions; and, at the same time, minimize the costs of power supply to electric utilities and their customers.[2]

The statutes on retail pricing of electricity require that rates be "fair and reasonable" for customers, or ratepayers,[3] and "just, reasonable, and compensatory" as to the utility.[4] As a result, when a statute requires that a utility purchase electricity from a non-utility and pass the costs on to its customers,[5] the purchase is at the purchasing utility's "full avoided costs," defined as "the incremental costs to the utility of the electric energy or capacity, or both, which, but for the purchase . . . such utility would generate itself or purchase from another source."[6] Thus, the renewable energy is purchased at the purchasing utility's cost to produce the energy using traditional means, with no regard for any value of any societal benefit the renewable energy may have.

Subsection 366.92(3), F.S., requires the Public Service Commission (PSC) to adopt rules for a renewable portfolio standard (RPS) requiring each provider[7] to supply renewable energy to its customers either by producing it, by purchasing renewable energy itself, or by purchasing

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[1] s. 366.91(1), F.S.
[2] s. 366.92(1), F.S.
[3] s. 366.03, F.S.
[4] s. 366.041, F.S.
[5] ss. 366.051 and 366.91(3), F.S.
[6] Section 366.051, F.S. Section 366.051, F.S. requires such purchases to encourage conservation, sections 366.91 and 366.92 to encourage increased use of renewable energy.
[7] The term "provider" is defined in paragraph 366.92(2)b. as a "utility" as defined in s. 366.8255(1)(a), which in turn is defined as "any investor-owned electric utility (IOU) that owns, maintains, or operates an electric generation, transmission, or distribution system within the State of Florida and that is regulated under this chapter."

renewable energy credits.[8] The rule is not to be implemented until ratified by the Legislature. The commission was required to, and did, present a draft rule for legislative consideration by February 1, 2009. The Legislature did not ratify the rule. A bill modeled on the rule, 2009 SB 1154, passed the Senate but died in the House.

Subsection 366.92(4), F.S., provides that, in order to demonstrate the feasibility and viability of clean energy systems, the commission must provide for full cost recovery of all reasonable and prudent costs incurred for investor-owned utility (IOU) renewable energy projects meeting specified criteria, up to a total of 110 megawatts statewide. To obtain cost recovery, the projects must be zero greenhouse gas emitting at the point of generation, the provider must have secured necessary land, zoning permits, and transmission rights within the state, and the provider must file for cost recovery no later than July 1, 2009. The costs are to be deemed reasonable and prudent for purposes of cost recovery so long as the provider has used reasonable and customary industry practices in the design, procurement, and construction of the project in a cost-effective manner appropriate to the location of the facility. The provider must report to the commission as part of the cost-recovery proceedings the construction costs, in-service costs, operating and maintenance costs, hourly energy production of the renewable energy project, and any other information deemed relevant by the commission. This authorization resulted in three solar projects by Florida Power and Light: a 25 megawatt solar photovoltaic project in Desoto County; a 75 megawatt solar thermal project co-located with an existing combined-cycle power plant in Martin County; and a 10 megawatt solar photovoltaic project located at Kennedy Space Center.

Section 366.8255, F.S., provides for IOU recovery of costs of compliance with environmental laws or regulations through a recovery clause instead of base rates.

Energy conservation and audits

Section 366.82(11), F.S., provides that the PSC must require each utility[9] to offer, or to contract to offer, energy audits to its residential customers. The requirement needn't be uniform, and may be based on such factors as level of usage, geographic location, or any other reasonable criterion, so long as all eligible customers are notified. The commission may extend this requirement to some or all commercial customers.

The commission is to set the charge for audits by rule, not to exceed the actual cost, and may describe by rule the general form and content of an audit. Each IOU is to estimate its costs and revenues for audits, conservation programs, and implementation of its plan for the immediately following 6-month period, and reasonable and prudent unreimbursed costs projected to be incurred may be added to the rates which would otherwise be charged by a utility upon approval by the PSC. Following each 6-month period, each utility must report to the PSC the actual results

[8] The term "renewable energy credit is defined in paragraph 366.93(2)(d) as "a product that represents the unbundled, separable, renewable attribute of renewable energy produced in Florida and is equivalent to 1 megawatt-hour of electricity generated by a source of renewable energy located in Florida." This credit is a method of separating-out and quantifying the value of the societal benefit, so that this value can be recovered separate from the sale of the electricity itself.

[9] The term "utility" is defined, for purposes of the Florida Energy Efficiency and Conservation Act, ss. 366.80-366.85 and 403.519, to mean any entity of whatever form which provides electricity at retail to the public, specifically including municipalities and cooperatives but specifically excluding any municipality or cooperative whose annual sales as of July 1, 1993, to end-use customers were less than 2,000 gigawatt hours. s. 366.82(1)(a), F.S.

for that period, and the difference, if any, between actual and projected results must be taken into account in succeeding periods.

Section 255.252(5), F.S., enacted in 2008,[10] requires that each state agency occupying space within buildings owned or managed by the Department of Management Services identify and compile a list of projects determined to be suitable for a guaranteed energy, water, and wastewater performance savings contract pursuant to s. 489.145.[11] The list of projects compiled by each state agency must be submitted to the Department of Management Services by December 31, 2008, and must include all criteria used to determine suitability. The list of projects must be developed from the list of state-owned facilities more than 5,000 square feet in area and for which the state agency is responsible for paying the expenses of utilities and other operating expenses as they relate to energy use. In consultation with the head of each state agency, by July 1, 2009, the department must prioritize all projects deemed suitable by each state agency and must develop an energy-efficiency project schedule based on factors such as project magnitude, efficiency and effectiveness of energy conservation measures to be implemented, and other factors that may prove to be advantageous to pursue. The schedule must provide the deadline for guaranteed energy, water, and wastewater performance savings contract improvements to be made to the state-owned buildings.

Electricity system resource planning

Ten-year site plan

Section 186.801, F.S, requires each electric utility to submit to the Public Service Commission a 10-year site plan estimating its power-generating needs and the general location of its proposed power plant sites. The plan must be reviewed and submitted no less frequently than every 2 years.

Within nine months after the receipt of the proposed plan, the commission must make a preliminary study of the plan, must consider the plan as a planning document, and must review:
- The need, including the need as determined by the commission, for electrical power in the area to be served.
- The effect on fuel diversity within the state.
- The anticipated environmental impact of each proposed electrical power plant site.
- Possible alternatives to the proposed plan.
- 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.
- The extent to which the plan is consistent with the state comprehensive plan.
- The plan with respect to the information of the state on energy availability and consumption.

Within this nine-month timeframe, the commission must classify the plan as either “suitable” or “unsuitable.” It also may suggest alternatives to the plan.

[10] Section 17 of chapter 2008-227, Laws of Florida.
[11] This statute provides a process by which an agency may enter into a contract with a third party that guarantees savings to the agency relating to either energy, water, or wastewater costs.

All findings of the commission must 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, constitutes an amendment to the 10-year site plan.

In order to enable it to carry out its duties under this section, the commission may, after hearing, establish a study fee not to exceed $1,000 for each proposed plan studied. The commission also may adopt rules governing the method of submitting, processing, and studying the 10-year plans.

Determination of need for a proposed power plant

Sections 403.501-403.518 are the “Florida Electrical Power Plant Siting Act.” The act requires that anyone intending to site (that is to locate, and by implication construct and operate) an electrical power plant do so pursuant to the procedures set forth in the act. Paragraph 403.503(14), F.S., defines the term “electrical power plant” to mean, in the relevant part, “any steam or solar electrical generating facility using any process or fuel, including nuclear materials, except that this term does not include any steam or solar electrical generating facility of less than 75 megawatts in capacity unless the applicant for such a facility elects to apply for certification under this act.”

Section 403.519, F.S., requires that the PSC make a determination of need for any proposed electrical power plant. In making its determination, the PSC is to consider:
- the need for electric system reliability and integrity,
- the need for adequate electricity at a reasonable cost,
- the need 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 utilized to the extent reasonably available.

The Florida Energy and Climate Commission and the energy office

Section 377.6015, F.S., creates the Florida Energy and Climate Commission (FECC) within the Executive Office of the Governor. The FECC consists of nine members, seven appointed by the Governor, one appointed by the Commissioner of Agriculture, and one appointed by the Chief Financial Officer. Each appointment is made from a list of three persons nominated by the Florida Public Service Commission Nominating Council. Members are appointed to 3-year terms. The Governor selects the chair. Appointments are subject to confirmation by the Senate during the next regular session after the vacancy occurs.

The chair may designate the following ex officio, nonvoting members to provide information and advice to the FECC at the request of the chair:
- The chair of the PSC, or his or her designee.
- The Public Counsel, or his or her designee.

- A representative of the Department of Agriculture and Consumer Services.
- A representative of the Department of Financial Services.
- A representative of the Department of Environmental Protection.
- A representative of the Department of Community Affairs.
- A representative of the Board of Governors of the State University System.
- A representative of the Department of Transportation.

Members must meet the following qualifications and restrictions:
- A member must be an expert in one or more of the following fields: energy, natural resource conservation, economics, engineering, finance, law, transportation and land use, consumer protection, state energy policy, or another field substantially related to the duties and functions of the FECC and the FECC must fairly represent these fields.
- Each member must, at the time of appointment and at each FECC meeting during his or her term of office, disclose:
    - Whether he or she has any financial interest, other than ownership of shares in a mutual fund, in any business entity that, directly or indirectly, owns or controls, or is an affiliate or subsidiary of, any business entity that may be affected by the policy recommendations developed by the FECC.
    - Whether he or she is employed by or is engaged in any business activity with any business entity that, directly or indirectly, owns or controls, or is an affiliate or subsidiary of, any business entity that may be affected by the policy recommendations developed by the FECC.

Members serve without compensation but are entitled to reimbursement for per diem and travel expenses. Meetings may be held in various locations around the state and at the call of the chair; however, the FECC must meet at least six times each year.

The FECC is authorized to:
- Employ staff and counsel as needed in the performance of its duties.
- Prosecute and defend legal actions in its own name.
- Form advisory groups consisting of members of the public to provide information on specific issues.

The FECC is required to:
- Administer the Florida Renewable Energy and Energy-Efficient Technologies Grants Program pursuant to s. 377.804 to assure a robust grant portfolio.
- Develop policy for requiring grantees to provide royalty-sharing or licensing agreements with state government for commercialized products developed under a state grant.
- Administer the Florida Green Government Grants Act pursuant to s. 377.808 and set annual priorities for grants.
- Administer the information gathering and reporting functions pursuant to ss. 377.601-377.608.
- Administer petroleum planning and emergency contingency planning pursuant to ss. 377.701, 377.703, and 377.704.
- Represent Florida in the Southern States Energy Compact pursuant to ss. 377.71-377.712.

- Complete the annual assessment of the efficacy of Florida's Energy and Climate Change Action Plan, upon completion by the Governor's Action Team on Energy and Climate Change pursuant to the Governor's Executive Order 2007-128, and provides specific recommendations to the Governor and the Legislature each year to improve results.
- Administer the provisions of the Florida Energy and Climate Protection Act pursuant to ss. 377.801-377.806.
- Advocate for energy and climate change issues and provide educational outreach and technical assistance in cooperation with the state's academic institutions.
- Be a party in the proceedings to adopt goals and submit comments to the Public Service Commission pursuant to s. 366.82.
- Adopt rules pursuant to chapter 120 in order to implement all powers and duties described in this section.

Many of these functions were performed by the staff of "the state energy program" prior to the creation of the FECC. This program staff, typically referred to as the "energy office" currently staffs the FECC.[12]

III. Effect of Proposed Changes:

Section 1 amends s. 366.82, F.S., to require each public utility to make a written offer to conduct a free energy audit of the business structures of each of commercial customer within its service territory and provide each customer with a report of the energy savings options and of any available financial assistance prior to December 31, 2016. If a customer has been audited in the previous five years, this requirement is deemed satisfied.

Section 2 amends s. 255.252(5), F.S., to require that the Department of Management Services, beginning on July 1, 2011, and in consultation with the head of each state agency, develop a prioritized list of buildings on which to have an energy audit performed. The department is then to perform the energy saving retrofits in order of the anticipated shortest payback period.

Section 3 amends s. 366.92, F.S., to provide for IOU recovery of costs of renewable energy projects. An IOU has until July 1, 2016, to petition the PSC for recovery of costs to produce or purchase renewable energy. An IOU can build renewable energy resources, convert existing fossil fuel generation plants to a renewable energy resource, or purchase renewable energy. A provider must submit the proposed project to the same bid process as with any other generating facility.

If an IOU chooses to develop renewable energy, at least twenty-five percent of the total nameplate capacity for which a provider is permitted to recover costs in any calendar year must be produced or purchased from renewable energy resources other than solar energy. In the case of a purchase of non-solar renewable energy, the provider must purchase actual production from nameplate capacity of that amount.

The IOU cannot petition for cost recovery until completion of construction of a new renewable energy project, the completion of the conversion of an existing facility to renewable energy, or

[12] Section 48, Chapter 2008-227, Laws of Florida.

the completion of a purchase of renewable energy. Upon the filing of a petition for approval of cost recovery, the PSC must schedule a formal administrative hearing within 10 days of the date of the filing of the petition and vote on the petition within 90 days after the date the filing.

Costs are to be deemed to be prudent if the IOU used reasonable and customary industry practices in the design, procurement, and construction of the project in a cost-effective manner appropriate for the type of renewable energy facility and appropriate to the location of the facility. An IOU may recover all prudently incurred costs of renewable energy under the environmental cost recovery clause.

As part of the cost-recovery proceedings, the provider must report to the commission the construction costs, in-service costs, operating and maintenance costs, hourly energy production of the renewable energy project, and any other information deemed relevant by the commission.

The PSC must allow full cost recovery over the entire useful life of the renewable energy resource of the revenue requirements utilizing traditional declining balance amortization of all reasonable and prudent costs, including but not limited to the following:

- for construction of a project, the siting, licensing, engineering, design, permitting, construction, operation, and maintenance of a renewable energy facility and associated transmission facilities by the IOU, with the term "cost" to include, but not be limited to, all capital investments including rate of return, and any applicable taxes and all expenses, including operation and maintenance expenses;
- for a purchase, the costs associated with the purchase of capacity and energy from new renewable energy resources;
- for a conversion, the costs of conversion of existing fossil fuel generating plants to a renewable energy facility, including the costs of retirement of the fossil fuel generation plant.

The cost of producing or purchasing renewable energy in any calendar year cannot exceed two percent of the investor-owned utility's total revenue from retail sales of electricity for the calendar year 2010.

When a provider pays costs for purchased power above the provider's full avoided costs, the seller must surrender to the provider all renewable attributes of the energy being purchased by the provider. Any revenues or other economic benefit derived from any renewable energy credit, carbon credit, or other mechanism that attributes value to the production of renewable energy that is received by a provider relating to renewable energy or other carbon-neutral or carbon-free means of producing electricity must be shared with the provider's ratepayers, such that the ratepayers are credited with at least 90 percent of such revenues or of the value of such other economic benefit.

The bill provides a legislative finding of need for the renewable energy projects that is to serve in lieu of the statutorily required PSC determination of need and the related PSC report.

Each provider obtaining cost recovery under this subsection must, for the duration of the recovery period, file an annual report with the commission containing the information listed below and any other information the commission deems necessary. The commission must gather all such reports annually and file a report with the President of the Senate, the Speaker of the

House, and the Governor no later than March 1 of each year. Each provider report must contain, at a minimum, the following:

- A description of the project, including a description of the technology used, the size of the project, and its location.
- A description and the amounts of the costs of construction, operation, and maintenance of the project.
- A description and the total number of the jobs created as a result of the project, including how long each job lasted.
- A description of the impact of the project on existing and planned generation and transmission facilities and on ratepayers, including how much production by traditional means was avoided, any planned traditional plants included in the ten-year site plan that were made unnecessary, any additional transmission that was necessary, a description of any impact on grid security and reliability, and a description of the price impact on ratepayers.

This section also deletes all existing provisions relating to the requirement that the PSC adopt an RPS rule.

Section 4 creates s. 366.95, F.S., to establish a process for creating a state energy resources plan. The bill makes legislative findings, including:

- Florida currently has very little renewable energy in production and that to increase this quickly would be costly to ratepayers;
- each of the regulated utilities is different, and each would be affected differently by a renewable energy requirement;
- as such, a mandate would be inappropriate, and instead the PSC is to develop a state energy resources plan as an expansion of its duties relating to the ten-year site plan requirements.

The bill requires the PSC to develop a state energy resources plan that:

- forecasts:
    - demand for electricity;
    - energy supply requirements needed to satisfy this projected demand, including the amount of capacity needed to provide adequate reserve margins and capacity needed to ensure reliability;
    - the ability of the existing energy supply sources and the existing transmission systems to satisfy this need together with those sources or systems reasonably certain to be available including planned additions, retirements, substantial planned outages, and any other expected changes in levels of generating and production capacity; and
    - additional electric capacity or transmission systems needed to meet such energy supply requirements that will not be met by existing sources of supply and those reasonably certain to be available, where such analysis should identify system constraints and possible alternatives available, both supply-side and demand-side alternatives, including but not limited to distributed generation, energy efficiency and conservation measures, to redress such constraint;
- identifies and assesses the costs, risks, benefits, and uncertainties of energy supply source alternatives, including demand-reducing measures, renewable energy resources, distributed generation technologies, cogeneration technologies, and other methods and technologies reasonably available for satisfying energy supply requirements;

- identifies and analyzes emerging trends related to energy supply, price and demand;
- identifies potential future sites for biomass power plants and solar power plants;
- identifies potential future sites for transmission and distribution lines;
- determines optimal percentages of fuels and technologies, both traditional and renewable, in the electric generation fleet for the next twenty-year period;
- determines the process and timeline for incorporating renewable energy resources into the generation fleet, and address redundancy of plants, both necessary and unnecessary, and retirement of unnecessary existing plants; and
- determines if any changes should be made to capacity, including any additions or retirements, and if any additional transmission or distribution lines are necessary.

In determining whether any new renewable energy resources should be added into the generation fleet, the PSC is to consider the following:

- the societal benefits of renewable energy;
- the necessity of maintaining an adequate and reliable source for energy and capacity needs;
- the necessity of maintaining an adequate and reliable transmission and distribution grid;
- the necessity to maintain fuel mix and diversity and source reliability and to minimize price fluctuations; and
- the necessity of minimizing overall price impacts to ratepayers.

Upon such a determination that renewable energy resources should be added, any public utility may obtain additional renewable energy resources by building a renewable energy facility, converting an existing fossil fuel facility to renewable energy, or purchasing renewable energy. All projects are subject to the same bid process as with any other generating facility. If the provider seeks to build the project, it must submit a bid to do so. The utility may recover all prudent costs in base rates. All determinations of prudency of costs are to be made giving consideration to the considerations and goals of this statute and of the state energy resources plan. All revenues from renewable energy credits or carbon credits are to be shared with ratepayers in a manner such that ratepayers receive a minimum of 90 percent of the revenue.

The Energy Office may be a party to all proceedings under this section, and the Department of Agriculture and Consumer Services may be a party in any proceeding relating to biomass plants on issues relating to proper siting for proximity to foodstocks, forestry management, or related matters.

The PSC must review the state energy resources plan biennially.

This statute will:

- join the PSC's current duties relating to reviewing each utility's ten-year site plans, making a determination of need for individual proposed power plants, and planning for adequacy and reliability of generation and transmission facilities into one, cohesive process, with a state-wide, long-term focus;
- provide for fact-based decisions on whether to add new renewable energy resources, when to do so, what fuels and technologies to use, and who to do the project instead of a general mandate such as a renewable portfolio standard; and

- address issues and potential difficulties of incorporating renewable energy resources into the existing generating and transmission resources such as reliability of both energy supply and transmission, redundancy of generation or alternatively inadequate supply of energy, retirement of existing plants, and efficiency of the process and changes to minimize costs and rate impacts.

Section 5 transfers all of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the Florida Energy and Climate Commission are transferred by a type two transfer, pursuant to s. 20.06(2), Florida Statutes, to the Florida Energy Office.

Section 6 amends s. 377.6015, F.S., to abolish the Florida Energy and Climate Commission (FECC) and statutorily create the Florida Energy Office within Department of Environmental Protection as a separate budget entity and exempt from any control, supervision, or direction by the Department of Environmental Protection in any manner, including purchasing, transactions involving real or personal property, personnel, or budgetary matters. The office is to be headed by a director, who is to be appointed by the Governor, subject to confirmation by the Senate. The office is to have all of the duties of the current FECC. In addition it is to:

- act as the principal economic development organization for the state on matters relating to renewable, alternative, or clean energy;
- market the state as a probusiness location for potential new energy-related investment, to create new energy-related businesses, and to retain and expand existing energy-related businesses. In doing so, it is to work with Enterprise Florida, Inc., Space Florida, and all other government entities at all levels, and also with all relevant private sector entities, necessary to facilitate the location of a business in this state by assisting those businesses in such matters as obtaining permits or licenses, determining appropriate tax laws and rules, and obtaining financing, incentives, grants, and other funding;
- work with the Florida energy systems consortium, created in s. 1004.648, to coordinate and promote Florida research on energy and to recruit energy researchers to Florida. As part of this role, it is to serve as the clearinghouse for research information from universities and private sector entities which receive funding or other assistance from the state relating to their research project.

Section 7 provides that the bill takes effect July 1, 2011.

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.

B. Private Sector Impact:

PSC staff provided the following information relating to IOU full cost recovery.

Two-percent of each company's 2010 revenues is as follows.

Company	2010 Revenues	2%
FPL	$10,304,092,818	$206,081,856
Gulf	$1,375,520,256	$27,510,405
Progress	$5,024,457,963	$100,489,159
TECO	$2,138,997,853	$42,779,957
Total	$18,843,068,890	$357,861,378

If each company immediately invested the maximum amount in renewable energy projects, the results would be the following.

	2011	2012[3]	2013	2014	2015	2016
Solar MW[1]	569	571	576	581	598	613
Solar GWh[2]	997	1001	1009	1018	1048	1074
Biomass MW	212	216	225	235	277	319
Biomass GWh	1487	1511	1579	1645	1942	2239

[1] MW = megawatt of capacity

[2] GWh = gigawatt hours of actual production; 1 gigawatt-hour = 1,000 megawatt-hours = 1,000,000 kilowatt-hours

[3] The yearly numbers are cumulative, incremental totals, with only slight additions from one year to the next.

The costs are estimated to result in an average .2-.3 cent per kilowatt-hour increase in a customer's monthly bill, with 75 percent of the increase attributable to solar projects and 25 attributable to biomass. The result is summarized in the following table.

Company	Rate impact
FPL	.20
Gulf	.25
Progress	.28
TECO	.22
Total	.22

Multiplying the average rate impact by the average residential monthly usage of 1,200 kilowatt-hours, the average monthly rate impact would be $2.64 (.22 x 1,200 = 264 cents = $2.64). This is an average over the useful life of the project; the expense would be amortized and the rate impact would be higher in early years, lower in later ones.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

There is a drafting error on line 440; the word "recovery" should be "recover."

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.

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