

**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 Environmental Preservation and Conservation Committee

BILL: CS/SB 1544

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Saunders

SUBJECT: Energy

DATE: March 19, 2008      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Branning	Kiger	EP	Fav/CS
2.			CU	
3.			GO	
4.			GA	
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The committee substitute is a comprehensive bill dealing with a number of energy issues. Specifically the committee substitute:

- Provides for telecommuting for employees of public employing entities.
- Provides that deed restrictions, covenants, declarations, or other similar binding agreements may not prohibit solar collectors or other energy devices based on renewable resources from being installed on buildings covered by such agreements, including condominiums.
- Provides that the future land use element of local comprehensive plans must discourage urban sprawl and the transportation circulation element must address reductions in greenhouse gas emissions.
- Provides that any solar energy device added to a homestead shall not increase the taxable value of the property.
- Provides that the sale or use of wind turbines is exempt from the sales tax up to \$1 million each fiscal year for all taxpayers.
- Increases the eligible costs relating to renewable energy technologies investment tax credits. Increases the limit of such tax credits per fiscal year from \$6.5 million to \$14 million.

- Provides that the Board of Trustees of the Internal Improvement Trust Fund may delegate to the Secretary of Environmental Protection authority to grant certain easements on state lands for electric transmission and distribution lines, natural gas pipelines, or other linear facilities for which the Public Service Commission (PSC) has determined a need exists or the Federal Energy Regulatory Commission has issued a Certificate of Public Convenience and Necessity.
- Provides that new and renovated state buildings strive to conform to certain green building standards.
- Clarifies the state's energy performance contracting process.
- Requires the Department of Management Services (DMS) to develop a Florida Climate Friendly Preferred Products List.
- Allows the DMS to conduct an analysis of ethanol and biodiesel use by the Department of Transportation (DOT).
- Allows alternative and renewable energy projects to be eligible for innovation grants from the Office of Tourism, Trade, and Economic Development.
- Provides that DOT's rules shall provide for the placement of and access to certain electric utility transmission lines adjacent to and within the right-of-way of any DOT controlled public roads.
- Encourages each metropolitan planning organization to consider strategies that integrate transportation and land use planning to provide for sustainable development and reduce greenhouse gas emissions.
- Requires the PSC to begin rulemaking requiring electric utilities to offset 20 percent of their annual load-growth through energy efficiency and conservation measures thereby constituting an energy-efficiency portfolio standard.
- Allows public utilities to recover certain redefined environmental compliance costs.
- Provides that a public utility may recover certain costs related to the construction and preconstruction of nuclear power facilities.
- Creates a new Florida Energy Commission in the Executive Office of the Governor.
- Allows public utilities to recover certain solar energy costs.
- Provides for the establishment of a cap-and-trade program to reduce greenhouse gas emissions.
- Provides for the siting of transmission facilities on state-owned lands under certain circumstances.
- Revises certain provisions of the Transmission Line Siting Act to streamline the act.
- Provides for an application fee for alternate transmission line corridors.
- Encourages counties to form regional solutions to the capture and reuse or sale of methane gas from landfills.
- Provides that after a certain date, all gasoline sold or offered for sale in Florida must contain at least 10 percent of an agriculturally derived, denatured ethanol fuel by volume.
- Requires the Florida Energy Commission to study lifecycle greenhouse gas emissions associated with all renewable fuels.
- Requires the Florida Building Commission to implement certain changes to the Florida Energy Efficiency Code for Building Construction.
- Requires the Florida Building Commission to implement a schedule of energy-efficiency goals and update the Florida Building Code.

- Requires the Florida Building Commission to conduct a study to evaluate the energy-efficiency rating of new buildings and appliances.
- Requires the Florida Building Commission to conduct a study to evaluate opportunities to restructure the Florida Energy Efficiency Code for Building Construction to achieve long-range improvements to building energy performance.
- Requires the Department of Community Affairs to identify and review issues relating to the Low-Income Home Energy Assistance program and the Weatherization Assistance Program and identify certain recommendations.
- Requires the PSC to analyze utility revenue decoupling and provide a report and recommendations to the Governor, President of the Senate, and the Speaker of the House of Representatives.
- Allows condominium associations to install certain solar and other energy-efficient devices in the common areas.
- Creates the Florida Energy Systems Consortium within the State University System.
- Provides that as a condition for the issuance of certain grants to private companies for energy-related research, the Department of Environmental Protection (DEP) may require an agreement stipulating the return to the state of a percentage of certain proceeds or profits.
- Requires the DEP to conduct an economic impact analysis on the effects of granting financial incentives to energy producers who use woody biomass as fuel.
- Provides for a long-term solid waste recycling goal.
- Provides that when the Climate Protection Act rules are submitted to the Legislature for ratification, the DEP must also submit a summary report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the costs and benefits of a cap-and-trade system.
- Provides an effective date.

This committee substitute substantially amends the following sections of the Florida Statutes: 74.052, 163.04, 163.3177, 186.007, 193.804, 212.08, 220.192, 220.193, 253.02, 253.034, 255.249, 255.251, 255.252, 255.253, 255.254, 255.255, 255.257, 286.275, 287.063, 287.064, 287.16, 288.1089, 337.401, 339.175, 366.82, 366.8255, 366.93, 377.601, 377.703, 377.804, 377.806, 377.901, 377.921, 380.23, 403.031, 403.503, 403.504, 403.506, 403.5064, 403.50665, 403.509, 403.5115, 403.5175, 403.518, 403.519, 403.814, 489.145, 553.77, 553.957, 553.975, and 718.113.

The committee substitute creates the following sections of the Florida Statutes: 112.219, 403.44, 403.7055, 526.203, 526.204, 526.205, 526.206, 553.886, 553.9061, and 1004.648.

## II. **Present Situation:**

### **2006 Legislation**

In the 2006 Regular Session, the Legislature passed CS/CS/CS/SB 888, ch. 2006-230, Laws of Florida. This was a broad energy bill which created the Florida Energy Commission and provided a number of economic incentives for, among other things, alternative energy and solar energy. The 2006 legislation provided that:

- The Renewable Energy Technologies Grants Program was created in the DEP to provide matching grants for demonstration, commercialization, research, and development projects relating to renewable technologies. Renewable energy technology was defined as any technology that generates or utilizes a renewable energy resource to include electrical, mechanical, or thermal energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen, biomass, solar energy, geothermal energy, wind energy, ocean energy, waste heat, or hydroelectric power. As a part of this program, DEP is to work with the Department of Agriculture and Consumer Services to coordinate grants for bioenergy projects.
- A tax holiday in October 2006 was established to provide that the sales tax would not be levied on new energy-efficient products sold during the specified sales tax holiday period and having a selling price of \$1,000 or less. The exemption was only for items purchased for personal use, and included items such as a dishwasher, clothes washer, air conditioner, ceiling fan, incandescent or florescent light bulb, dehumidifier, programmable thermostat, or refrigerator that meet certain criteria.
- A rebate program was created for purchasers of solar photovoltaic systems or solar thermal systems, including pool heaters. To be eligible, the systems must meet certain requirements. The maximum rebates are provided and vary depending on the type of system and its intended use.
- An exemption from sales tax was created for stated types of products relating to hydrogen-powered vehicles, commercial stationary hydrogen fuel cells, and materials used in distributing biodiesel and ethanol.
- An investment tax credit was created for costs related to investments in hydrogen-powered vehicles and hydrogen fueling stations; fuel cells; and biodiesel and ethanol.

### **2007 Legislation**

In 2007, the Legislature passed CS/HB 7123 which was also a comprehensive energy bill. That bill was subsequently vetoed by the Governor on June 20, 2007. In his veto message, the Governor stated that the bill did not go far enough and, in some instances, the bill takes a step backward. That bill would have:

- Created the Energy Policy Governance Task Force.
- Provided that the renewable energy source exemption for improved real property is for the amount of the cost of the renewable energy source device.
- Provided that the sales tax exemption for equipment and machinery used for ethanol is for ethanol produced by the conversion of carbohydrates. Clarified that only one purchase of an eligible item is subject to a refund.
- Allowed for the transfer of the corporate income tax credit for renewable energy technologies investment.
- Provided that buildings constructed and financed by the state must be designed to meet certain “green” conservation standards.
- Provided that no state agency may construct a facility without having secured from the DMS an evaluation of life-cycle costs based on sustainable building ratings.
- Extended the repayment period for the financing of certain energy conservation measures.
- Clarified that the payment of certain solar energy system rebates may be made only to the final purchaser of an eligible system. Limited the rebates to one per type of system per resident per state fiscal year.

- Required the DEP to develop a greenhouse gas inventory.
- Modified the Guaranteed Energy Performance Savings Contracting Act to include allowable cost avoidance. Requires review of the contracts by the Office of the Chief Financial Officer.
- Corrected “glitches” in the 2006 revisions to the Power Plant Siting Act and the Transmission Line Siting Act.
- Created a Farm-to-Fuel Grants Program.
- Created a Biofuel Retail Sales Incentive Program.
- Created a Biofuel Production Incentive Program.
- Required the Florida Building Commission to convene a workgroup to develop a model residential energy efficiency ordinance.
- Required the Florida Building Commission to revisit the analysis of cost-effective means to improve energy efficiency in commercial buildings. The commission must report with a standard which may be adopted for the construction of all new residential, commercial, and government buildings to the Legislature.
- Required the Florida Building Commission to develop and implement a public awareness campaign that promotes energy efficiency and the benefits of building green.
- Provided that all county, municipal, and public community college buildings shall be constructed to meet certain green building standards.
- Provided minimum purchase requirements for biodiesel for use by state and school district fleets, subject to availability.
- Subject to appropriation, created within the Executive Office of the Governor, a Energy Aerospace, and Technology Fund to encourage a state partnership with the Federal Government and the private sector to identify business and investment opportunities and target performance goals for those investments in the areas of alternative energy development and production infrastructure.
- Provided for the construction of a multifaceted Research and Demonstration Cellulosic Ethanol Plant.
- Required studies and reports on: an appropriate Renewable Portfolio Standard; an energy efficiency and solar energy incentive; and Florida Energy Efficiency and Conservation Act measures.
- Created the Green Schools Pilot Project.

### **Executive Orders**

On July 13, 2007, the Governor signed a set of Executive Orders during the Serve to Preserve Florida Summit on Global Climate Change that put into place a new direction for Florida’s energy future. The three Executive Orders represent the Governor’s commitment to addressing global climate change, reducing Florida’s greenhouse gases, increasing our energy efficiency and pursuing more renewable energy sources, such as solar and wind technologies, as well as alternative energy, such as ethanol and hydrogen.<sup>1</sup>

Executive Order 07-126 provided for immediate actions to reduce greenhouse gas emissions by Florida state government. The order directs the state to reduce emissions by 10 percent by 2012, 25 percent by 2017, and 40 percent by 2025. To achieve these goals, state buildings constructed in the future will be energy efficient. Office spaced leased will also have to be in energy –

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<sup>1</sup> <http://www.dep.state.fl.us/climatechange>

efficient buildings as well. In addition, all vehicles should be fuel efficient and use alternative fuels.

Executive Order 07-127 provided for immediate actions to reduce greenhouse gas emissions within Florida and set certain target levels. The target levels seek to reduce emissions to 2000 levels by 2017, to 1990 levels by 2025, and to 80 percent of 1990 levels by 2050. The order also directs that the state adopt the California motor vehicle emission standards provided the U.S.EPA approved them. (The EPA ruled against California and legal proceedings are now underway.)

Executive Order 07-128 established the Florida Energy and Climate Action Plan Team to develop a comprehensive Energy and Climate Change Action Plan to achieve or surpass the targets for statewide greenhouse gas reductions specified in Executive Order 07-127.

The Energy and Climate Action Team, formed pursuant to Executive Order 07-128, issued its Phase I report on November 1, 2007. The Phase II report is due by October 1, 2008.

### **Florida Energy Commission**

Pursuant to s. 377.901, F.S., the Florida Energy Commission is required to develop recommendations for legislation to establish a state energy policy. The recommendations of the commission are to be based on the guiding principles of reliability, efficiency, affordability, and diversity. Each year by December 31 the commission must report to the President of the Senate and the Speaker of the House of Representatives on its progress and recommendations, including draft legislation. The initial report of the commission was submitted in December 2007. The commission formed four advisory groups to facilitate its hearings and develop its recommendations. In its 2007 report, the commission grouped its many recommendations into the following categories:

- State governance
- Climate change
- Energy efficiency and conservation
- Renewable energy resources
- Energy supply and delivery
- Education, research and development

### **Florida Energy Office**

The Florida Energy Office in the DEP is the state's primary center for energy<sup>2</sup> and siting coordination for electrical power plants, electrical transmission lines, natural gas pipelines, and hazardous waste facilities. In addition to developing and implementing Florida's energy policy, the energy office currently coordinates all federal energy programs delegated to the state, including energy supply, demand, conservation and allocation. The office also promotes advanced clean energy sources, such as hydrogen power, solar energy, bio-based fuels, and clean vehicles, as well as conservation and efficiency measures, and coordinates fuel supplies and electricity recovery during emergencies.

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<sup>2</sup> s. 20.255(8), F.S.

### III. Effect of Proposed Changes:

This committee substitute addresses a variety of energy and energy-related issues.

**Section 1** amends s. 74.052, F.S., to provide that if a defendant requests a hearing and the petitioner is an electric utility that is seeking to appropriate property necessary for an electric generation plant, an associated facility of such plant, an electric substation, or a power line, the court shall conduct the hearing no more than 120 days after the petition is filed. The court shall issue its final judgment no more than 30 days after the hearing.

**Section 2** creates s. 112.219, F.S., to create a public employee telecommuting program. Each public employing entity shall establish the public employee telecommuting program for its own employees; appoint an organization-wide telecommuting coordinator and provide technical assistance within the entity. Each public employing entity must develop a telecommuting plan that must contain certain specified elements.

**Section 3** amends s. 163.04, F.S., to provide that a deed restriction, covenant, declaration, or similar binding agreement may not prohibit solar collectors or other energy devices based on renewable resources from being installed on buildings covered by the deed restriction, covenant, declaration, or binding agreement. This provision includes condominiums.

**Section 4** amends s. 163.3177, F.S., to provide that the future land use element of the local comprehensive plan must provide for the discouragement of urban sprawl and encourage energy-efficient land use patterns. The traffic circulation element of the comprehensive plan shall incorporate transportation strategies to address reduction in greenhouse gas emissions from the transportation sector.

**Section 5** amends s. 186.007, F.S., to provide that the state comprehensive plan may include energy and global climate change goals.

**Section 6** amends s. 193.804, F.S., to provide that if a taxpayer adds any solar energy device to his or her homestead, the value of the solar energy device shall not be added to the assessed value of the property for purposes of property taxes. If a question arises from the property appraiser regarding the solar energy device assessment, the DEP shall make the determination. The DEP is authorized to adopt rules to administer the solar energy device assessment provisions.

**Section 7** amends s. 212.08, F.S., to redefine “ethanol” to mean an anhydrous denatured alcohol produced by the conversion of carbohydrates instead of the fermentation of plant sugars. “Wind energy” or “wind turbines” is defined to mean rotary mechanical equipment that uses wind to produce at least 10kW of electrical energy. The sale or use of wind turbines is exempt from the sale and use tax up to a limit of \$1 million in tax each state fiscal year for all taxpayers.

The exemption from the sales and use tax for certain items such as wind turbines is only available to a purchaser through a refund of previously paid taxes. Only the initial purchase of an eligible item from the manufacturer is subject to refund.

The DEP may adopt by rules the form for the application for a tax exemption certificate regarding the sales tax exemption for certain items such as hydrogen-powered vehicles, materials used in distribution of biodiesel, and wind turbines.

**Section 8** amends s. 220.192, F.S., to increase the eligible costs relating to renewable energy technologies investment tax credit. Currently, 75 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 \$6.5 million per state fiscal year for all taxpayers may be claimed as a corporate income tax credit. The committee substitute increases the limit to \$14 million.

“Wind energy” or “wind turbine” is defined. The committee substitute provides that for tax years beginning on or after January 1, 2009, a corporate income tax credit may be granted for eligible costs related to wind energy. If the credit is not fully used in any one tax year, it may be carried forward and used in tax years beginning January 1, 2009, and ending December 31, 2014, after which the credit carryover expires and may not be used. Provides the procedure for transferring these tax credits.

**Section 9** amends s. 220.193, F.S., to define “sale” or “sold”, and “taxpayer”. Provides that the corporate tax credit is attributed to a corporation according to its proportional ownership interest in a taxpayer. Authorizes the Department of Revenue to adopt rules and guidelines relating to this proportional ownership interest.

**Section 10** amends s. 253.02, F.S., to provide that the Board of Trustees of the Internal Improvement Trust Fund (board of trustees) may delegate to the Secretary of Environmental Protection the authority to grant easements for rights-of-way over, across, and upon lands of the state for the construction and operation of natural gas pipeline transmission and linear facilities, including electric transmission and distribution facilities under certain conditions.

**Section 11** amends s. 253.034, F.S., to provide that a public utility, regional transmission organization, or natural gas company may be granted fee simple title, easements, or other interests in non-sovereignty state-owned lands title to which is vested in the board of trustees, a water management district, or any other agency in the state for the following under certain conditions:

- Electric transmission and distribution lines;
- Natural gas pipelines; or
- Other linear facilities for which the PSC has determined a need exists or the Federal Energy Regulatory Commission has issued a Certificate of Public Convenience and Necessity.

In exchange for less than a fee simple interest, the grantee shall pay an amount equal to the fair market value of the interest acquired. Also, for the initial grant of such interests only, the grantee shall vest in the grantor a fee simple interest to other available land that is 1.5 times the size of the land acquired by the grantee.

In exchange for a fee simple interest, the grantee shall pay an amount equal to the fair market value of the interest acquired. Also, for the initial grant of such interests only, the grantee shall also vest in the grantor a fee simple title to other available land that is 2 times the size of the land acquired by the grantee.



As an alternative to the less than fee simple and fee simple interests, the grantee may, subject to the grantor's approval, pay the fair market value of the state-owned land plus one-half of the cost differential between the cost of constructing the facility on state-owned land and the cost of avoiding state-owned lands, up to a maximum of twice the fair market value of the land acquired by the grantee. The grantor may use these moneys to acquire fee simple or less than fee simple interest in other available land.

**Section 12** amends s. 255.249, F.S., to require each state agency provide annually to the DMS information regarding telecommuting plans of the agency.

**Section 13** amends s. 255.251, F.S., to rename the Energy Conservation in Buildings Act as the Energy Conservation and Sustainable Buildings Act.

**Section 14** amends s. 255.252, F.S., provide legislative intent regarding energy-efficient state-owned buildings that meet environmental standards. It is the policy of the state that buildings constructed and financed by the state be designed and constructed in accordance with the U.S. Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) rating system, with a goal of meeting the Platinum level rating, the Green Building Initiative's Green Globes rating system, or the Florida Green Building Coalition standards. It is also the state's policy to operate, maintain, and renovate existing state facilities in accordance with the U.S. Green Building Council's Leadership in Energy and Environmental Design for Existing Buildings (LEED-EB) for smaller renovations, or the U.S. Green Building Council's Leadership in Energy and Environmental Design for New Construction (LEED-NC) for major renovations, with a goal of achieving the Platinum level rating system, or the Florida Green Building Coalition standards.

Each state agency in buildings owned or managed by the DMS must identify and compile a list projects suitable for a guaranteed energy performance savings contract pursuant to s. 489.145, F.S. The list of projects shall be developed from the list of state-owned facilities greater than 5,000 square feet and for which the state government entity is responsible for paying the expenses of utilities and other operating expenses as they relate to energy use. By July 1, 2009, the DMS shall prioritize the projects based on certain specified factors.

**Section 15** amends s. 255.253, F.S., to define "state government entity", "sustainable building", and "sustainable building rating".

**Section 16** amends s. 255.254, F.S., to provide that a state government entity may not lease, construct, or have constructed a facility without having secured from the DMS an evaluation of life-cycle costs. Further, the construction shall proceed only upon disclosing, among other requirements, its sustainable building rating goal. The life-cycle costs and the sustainable building rating goal are primary considerations in the selection of a building design. For leased buildings of at least 5,000 square feet an energy performance analysis shall be performed. Any building leased by the state from a private-sector vendor must include, as a part of the lease, provisions for monthly energy-use data to be collected and submitted monthly to the DMS by the owner of the building.

**Section 17** amends s. 255.255, F.S., to require the DMS to adopt rules and procedures, including energy conservation performance guidelines, based on sustainable building ratings for conducting a life-cycle analysis of certain building designs and alternative major items of energy-consuming equipment to be retrofitted in existing state-owned or leased facilities.

**Section 18** amends s. 255.257, F.S., to provide that certain energy and cost data be reported to the DMS annually. Each state government entity shall appoint a coordinator to advise the head of the state government entity on certain energy consumption matters. The coordinators shall assist the DMS in the development of the State Energy Management Plan. The State Energy Office shall provide technical assistance to the DMS in the development of the State Energy Management Plan.

Each state government entity shall adopt the standards of the U.S. Green Building Council's Leadership in Energy and Environmental Design for New Construction (LEED-NC), the Green Building Initiative's Green Globes for New Construction (NC) rating system, or the Florida Green Building Coalition standards for all new buildings, with a goal of achieving the LEED-NC Platinum or Green Globes for New Construction 4 Globes level rating for each construction project. Also, each state government entity shall implement the U.S. Green Building Council's Leadership in Energy and Environmental Design for Existing Buildings (LEED-EB), the Green Building Initiative's Green Globes for the Continual Improvement of Existing Buildings (CIEB) rating system, or the Florida Green Building Coalition standards. A state government entity may prioritize the implementation of these standards to gain the greatest environmental benefit within its existing budget for property management.

A state government entity may not enter into a new leasing agreement for office space that does not meet Energy Star building standards, except under certain conditions.

**Section 19** amends s. 286.275, F.S., to require the DMS to develop a Florida Climate Friendly Preferred Products List. When procuring products from state contracts, state government entities shall first consult the Florida Climate Friendly Preferred Products List and procure such products if the cost does not exceed by 5 percent the most cost-effective alternative commodity not included on the list.

Effective July 1, 2008, state government entities shall contract for meeting and conference space only with hotels or conference facilities that have received the "Green Lodging" designation from the DEP. Provides exceptions.

The DEP is required to establish voluntary technical assistance programs for programs such as Clean Marinas, Clean Boatyards, Clean Retailers, Clean Boaters, and Green Yard programs.

Each state government entity shall ensure that all maintained vehicles meet certain minimum maintenance schedules. When procuring a new vehicle, each state government entity shall first define the intended purpose for the vehicle and determine which of the specified use classes for which the vehicle is being procured. Vehicles must be selected for the greatest fuel efficiency available for a given use class when fuel-economy data are available.

All state government entities shall use ethanol and biodiesel-blended fuels when available.

**Section 20** amends s. 287.063, F.S., to provide that the payment term for a deferred-payment commodity contract may not exceed the useful life of the equipment unless the contract provides for the replacement or the extension of the useful life of the equipment during the term of the loan.

**Sections 21** amends s. 287.064, F.S., to provide that a master equipment financing agreement may finance the cost of energy, water, or wastewater efficiency and conservation measures, excluding the costs of training, operation, and maintenance, for a term of repayment that may exceed 5 years but not more than 20 years. The guaranteed energy, water, and wastewater savings contractor shall provide for the replacement or the extension of the useful life of the equipment during the term of the contract.

**Section 22** amends s. 287.16, F.S., to allow the DMS to conduct, in coordination with the DOT, an analysis of ethanol and biodiesel use by the DOT through its central fueling facilities. The DMS shall encourage other state government entities to analyze transportation fuel usage and report such information to DMS.

**Section 23** amends s. 288.1089, F.S., to define “alternative and renewable energy” and allows an alternative and renewable energy project to be eligible for an innovation incentive grant from the Office of Tourism, Trade and Economic Development. The alternative and renewable energy project must meet certain criteria. The project must:

- Demonstrate a plan for significant collaboration with an institution of higher education.
- Provide the state, at a minimum, a break-even return on investment within a 20-year period.
- Include matching funds provided by the applicant or other available sources. This requirement may be waived under certain circumstances.
- The business project is located in this state.
- The jobs created by the business project pay an estimated annual average wage that equals at least 130 percent of the average private sector wage. This requirement may be waived under certain circumstances.
- The business project meets one of eight specified requirements.

**Section 24** amends s. 337.401, F.S., to provide that the DOT’s rules shall provide for the placement of and access to certain electric utility transmission lines adjacent to and within the right-of-way of any DOT-controlled public roads, including longitudinally within limited access facilities to the greatest extent allowed by federal law if compliance with the standards established by the rules is achieved. The DOT’s rules must include certain considerations.

**Section 25** amends s. 339.175, F.S., is amended to encourage each metropolitan planning organization (MPO) to consider strategies that integrate transportation and land use planning to provide for sustainable development and reduce greenhouse gas emissions. Each MPO must annually prepare a list of project priorities. The list of project priorities must be based on project selection criteria that considers among other things sustainable growth and reduction of greenhouse gas emissions.

**Section 26** amends s. 366.82, F.S., to require the PSC to begin rulemaking no later than July 1, 2009, requiring electric utilities to offset 20 percent of their annual load-growth through energy

efficiency and conservation measures thereby constituting an energy-efficiency portfolio standard. The PSC may allow efficiency investments across generation, transmission, and distribution as well as efficiencies within the user base. As part of the implementation rules, the PSC shall create an in-state market for tradable credits enabling those electric utilities that exceed the standard to sell credits to those that cannot meet the standard for a given year. This efficiency standard is separate from and exclusive of the renewable portfolio standard that requires electricity providers to obtain a minimum percentage of their power from renewable energy resources. Every 3 years, the PSC shall review and reevaluate this efficacy of efficiency standard on a regional and statewide approach.

The PSC shall require municipal and cooperative utilities that are exempt from the Florida Energy Efficiency and Conservation Act to submit an annual report to the PSC identifying energy efficiency and conservation goals and the actions taken to meet those goals.

In evaluating the cost-effectiveness of demand-side management programs, the PSC shall use methodologies that recognize the non-economic benefits associated with reduced energy demand from energy efficiency and conservation programs and that recognize the benefits associated with constructing new generation capacity.

The PSC shall establish a renewable energy portfolio standard that requires electric utilities to generate or purchase a specified percentage of their electrical power from renewable energy resources of which not less than 3 percent must be solar and located within the state. Municipal and cooperative utilities that are exempt from the Florida Energy Efficiency and Conservation Act shall submit an annual report to the PSC identifying the respective percentage of their electrical power that is generated or purchased from such renewable energy resources. The PSC may adopt rule to administer this provision.

**Section 27** amends s. 366.8255, F.S., to redefine “environmental compliance costs”. The term will include costs or expenses prudently incurred for scientific research and geological assessments of carbon capture and storage for the purpose of reducing an electric utility’s greenhouse gas emissions when such costs or expenses are incurred in joint research projects with state government agencies and universities; and costs or expenses prudently incurred for the quantification, reporting, and verification of greenhouse gas emissions by third parties as required for participation in emission registries.

**Section 28** amends s. 366.93, F.S., to provide that the term “cost” for cost recovery for the siting, design, licensing, and construction of nuclear power plants includes any new, enlarged, or relocated electrical transmission lines or facilities of any size which are necessary to serve the nuclear power plant.

If a utility elects not to complete or is precluded from completing construction of the nuclear power plant, including any new, expanded, or relocated electrical transmission lines or facilities, the utility is allowed to recover all prudent preconstruction and construction costs incurred following the commission’s issuance of a final order granting a determination of need for the nuclear power plant and electrical transmission lines and facilities.

**Section 29** amends s. 377.601, F.S., to provide legislative intent regarding a single government entity that has energy and climate change as its specific focus. It is the policy of the state to recognize and address the potential impacts of global climate change whenever possible and play a leading role in developing and instituting energy management programs aimed at promoting energy conservation, energy security, and the reduction of greenhouse gas emissions. Further, the state should consider, in its decisionmaking, the social, economic, security, and environmental impacts of energy-related activities, including the whole life-cycle impacts of any potential energy use choices.

**Section 30** amends s. 377.703, F.S., to correct cross references.

**Section 31** amends s. 377.804, F.S., to provide that the Renewable Energy *and Energy-Efficient* Technologies Grants Program is established within the DEP to provide renewable energy technologies and innovative technologies that significantly increase energy efficiency for vehicles and commercial buildings. The DEP may adopt rules to develop a policy requiring grantees to provide royalty-sharing or licensing agreements with the state for commercialized products developed under a state contract.

Each application for a grant must be accompanied by an affidavit from the applicant attesting to the veracity of the statements contained in the application.

**Section 32** amends s. 377.806, F.S., to provide that a solar photovoltaic system qualifies for a solar photovoltaic system incentive if the system complies with the Florida Building Code.

**Section 33** amends s. 377.901, F.S., to create a new Florida Energy Commission in the Executive Office of the Governor. This will replace the provisions relating to the current Florida Energy Commission. The new commission will be comprised of nine members appointed as follows: seven by the Governor and one each by the Commissioner of Agriculture and Consumer Services (Commissioner) and the Chief Financial Officer (CFO). The Governor shall select the chair of the commission from his or her appointments. Members shall be appointed to 3-year terms; however to establish staggered terms, three of the appointments by the Governor and each of those by the Commissioner and the CFO shall serve a 2-year term.

The appointees to the commission shall be selected from a list of persons nominated by the Florida Public Service Commission Nominating Council. The council shall, at a minimum, submit three names for every vacancy. The council shall not link names to any specific vacancy on the commission.

The Governor, Commissioner and the CFO may submit prospective names to the council for their consideration. The council shall submit the list of nominees to the Governor by September 1 of those years in which the terms are to begin the following October, or within 60 days after a vacancy occurs for any reason other than the expiration of the term. Upon receipt of the nominees, the Governor shall make his or her selections. After the Governor has selected his or her nominees, the list shall be given to the Commissioner and the CFO for their selections. Vacancies may only be filled after a background investigation of the applicant has been conducted by the Department of Law Enforcement.

Vacancies shall be filled for the unexpired portion of the time in the same manner as original appointments to the commission. If the appointing offices have not made an appointment within 30 consecutive calendar days after the receipt of the recommendations, the council shall initiate the nominating process within 30 days.

Each appointment to the commission is subject to confirmation by the Senate during the next regular session after the vacancy occurs. If the Senate refuses to confirm or fails to consider the appointment, the council shall initiate the nominating process within 30 days.

The Governor, Commissioner, or the CFO or their successors may recall an appointee.

Members must meet certain specified qualifications and restrictions.

The following may also attend meetings and provide information and advice at the request of the chair:

- The chair of the PSC, or his or her designee.
- The Public Counsel, or his or her designee.
- The Director of the Office of Insurance Regulation, or his or her designee.
- The State Surgeon General, or his or her designee.
- The chair of the State Board of Education, or his or her designee.
- The Secretary of Community Affairs, or his or her designee.
- The Secretary of Transportation, or his or her designee.
- The Secretary of Environmental Protection, or his or her designee.

Members serve without compensation but are entitled to reimbursement for per diem and travel expenses.

The commission must meet at least four times each year.

Commission duties;

- Develop recommendations for legislation to establish a state energy policy.
- 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, and provide specific recommendations to the Governor and the Legislature each year as part of its annual reporting requirements, to improve result.
- Advocate for energy and climate change issues and provide educational outreach and technical assistance in cooperation with Florida's academic institutions and the Florida Energy Systems Consortium.

**Section 34** amends s. 377.921, F.S., to provide that it is in the public interest to encourage public utilities to develop and implement programs that promote the deployment and use of qualified solar energy systems. Defines the terms "qualified solar energy system", "public utility", "eligible program", "program fuel cost savings", and "program costs".

A public utility is allowed to recover, through the energy conservation cost recovery clause, either period expenses or by capitalizing and amortizing, all prudent and reasonable program

costs incurred in implementing an eligible program. With respect to any solar hot water heating system, the amortization period shall be 5 years.

A utility is allowed to recover through the fuel cost recovery clause beginning in the year each solar thermal water heating system begins operation 10 percent of any such program fuel cost savings until the utility undergoes its next rate proceeding before the PSC. The remaining 90 percent of fuel savings shall be returned to the utility's customers through the fuel cost recovery clause.

The PSC shall enter an order approving a public utility's qualified solar energy system program if the utility demonstrates that certain conditions are met. The PSC must, within 60 days of receiving a petition to approve a qualified solar energy system program, either approve the petition or inform the utility of any deficiencies. The utility may correct those deficiencies and refile the petition.

The public utility shall own the renewable attributes or benefits associated with the energy output of a qualified solar energy system installed pursuant to an eligible program.

**Sections 35 and 36** amend ss. 380.23 and 403.031, F.S., to correct a cross reference.

**Section 37** creates s. 403.44, F.S., to provide for the Florida Climate Protection Act. The Legislature finds it is in the interest of the state to document, to the greatest extent practicable, greenhouse gas emissions and to pursue a market-based emissions-abatement program, such as cap-and-trade, to address greenhouse emissions reductions.

The following terms are defined: "allowance", "cap-and-trade", "greenhouse gas", "leakage", and "major emitter".

A major emitter must use the Climate Registry for purposes of emission registration and reporting.

The DEP shall establish the methodologies, reporting periods, and reporting systems that must be used when major emitters report to the Climate Registry and may require the use of quality-assured data from continuous emissions-monitoring systems.

The DEP may adopt rules for a cap-and-trade regulatory program to reduce greenhouse gas emissions from major emitters. In developing the rules, the DEP shall consult with the Governor's Action Team on Energy and Climate Change, the PSC, and the Florida Energy Commission. The rules shall not become effective until ratified by the Legislature. The cap-and-trade rules must include certain specified items.

**Section 38** amends s. 403.503, F.S., to define "alternate corridor" and to redefine "corridor".

**Section 39** amends s. 403.504, F.S., to allow the DEP to determine whether an alternate corridor proposed for consideration under the Florida Electrical Power Plant Siting Act is acceptable.

**Section 40** amends s. 403.506, F.S., to provide that the provisions of the Florida Electrical Power Plant Siting Act do not apply to any electrical power plant of less than 75 megawatts in gross capacity including its associated facilities unless the applicant has elected to apply for certification of such electrical power plant under the act. The provisions of the act do not apply to capacity expansions of 75 megawatts or less, in the aggregate, of an existing exothermic reaction cogeneration electrical generating facility that was exempt from the act when it was originally built.

An electric utility may obtain separate licenses, permits, and approvals for the construction of facilities necessary to construct an electrical power plant without first obtaining certification under the Power Plant Siting Act if the utility intends to construct facilities for a power plant using nuclear materials as fuel.

**Section 41** amends s. 403.5064, F.S., to require an applicant to submit a statement to the DEP if the applicant opts for consideration of alternate corridors for an associated transmission line corridor.

**Section 42** amends s. 403.50665, F.S., to provide that the issue of land use and zoning consistency for any alternate intermediate electrical substation that is proposed as part of an alternate electrical transmission line corridor and that is accepted by the applicant and the DEP shall be addressed in the supplementary report prepared by the local government on the proposed alternate corridor and shall be considered as an issue at any final certification hearing.

**Section 43** amends s. 403.509, F.S., to provide that any transmission line corridor certified by the siting board consisting of the Governor and the Cabinet (board) or the Secretary of Environmental Protection (secretary), if applicable, shall meet the criteria specified in this section. When more one transmission line corridor is proposed for certification, the board or the secretary if applicable shall certify the transmission line corridor that has the least adverse impact.

**Section 44** amends s. 403.5115, F.S., to require the applicant proposing the alternate corridor to publish all notices relating to the application. Such notices must comply with certain requirements and must be published at least 45 days before the rescheduled certification hearing.

**Section 45** amends s. 403.5175, F.S., to correct a cross reference.

**Section 46** amends s. 403.518, F.S., to provide that the application fee for an alternate corridor is \$750 per mile for each mile of the alternate corridor located within an existing electric transmission line right-of-way or within an existing right-of-way for a road, highway, railroad, or other aboveground linear facility, or \$1,000 per mile for each mile of transmission line corridor proposed to be located outside the existing right-of-way.

**Section 47** amends s. 403.519, F.S., to provide that an applicant's petition for a determination of need must include a description of and a nonbinding estimate of the cost of the nuclear power plant including any costs associated with new, enlarged, or relocated electrical transmission lines or facilities of any size that are necessary to serve the nuclear power plant.



**Section 48** creates s. 403.7055, F.S., to encourage counties to form multicounty regional solutions to the capture and reuse or sale of methane gas from landfills and wastewater treatment facilities. The DEP shall provide planning guidelines and technical assistance to each county to develop and implement such multicounty efforts.

**Section 49** amends s. 403.814, F.S., to provide that transmission lines and appurtenances certified under part II of ch. 403, F.S., (relating to electrical power plant and transmission line siting) are authorized by a general permit issued by DEP.

**Section 50** amends s. 489.145, F.S., to provide that energy conservation measures must reduce Btu, kW, or kWh consumption or provide long-term operating cost reductions. “Energy cost savings” is redefined to include water and wastewater cost savings.

The term “investment grade energy audit” is defined. Before the design and installation of energy conservation measures, the agency must obtain from a guaranteed energy performance savings contractor an investment grade audit. Financing for guaranteed energy performance savings contracts may be provided under the authority of s. 287.064, F.S. The CFO shall review proposals from state agencies to ensure that the most effective financing is being used. Annually, the agency that has entered into the contract shall provide the DMS and the CFO the measurement and verification report required by the contract to validate that energy savings have occurred. The contract must require the use of straight line amortization.

The DMS shall review the investment-grade audit for each proposed project and certify that the cost savings are appropriate and sufficient for the term of the contract. The CFO shall develop model contractual and other related documents and shall, by rule, develop the contract requirements for use by state and other agencies.

A proposed contract or lease shall include supporting criteria including the specification of a benchmark cost of capital and minimum real rate of return on energy, water, or wastewater savings.

Financing of deferred payment commodity contracts by a state agency must be supported from available recurring funds appropriated to the agency which the Legislature has designated for payment or which the CFO has determined appropriate.

**Sections 51, 52, 53, and 54** create ss 526.203, 526.204, 526.205, and 526.206, F.S., to provide for a renewable fuel standard. The following terms are defined: “blender”, “exporter”, “importer”, “terminal supplier”, “wholesaler”, “fuel ethanol-blended gasoline”, and “unblended gasoline”.

On or after December 31, 2010, all gasoline sold or offered for sale in Florida at retail shall contain, at a minimum, 10 percent of an agriculturally derived, denatured ethanol fuel by volume. No terminal supplier, importer, exporter, blender, or wholesaler in this state shall sell or deliver fuel which does not meet these blending requirements. Certain exemptions are provided.

Each terminal supplier, importer, exporter, blender, and wholesaler shall include in its report to the Department of Revenue, the number of gallons of gasoline fuel meeting and not meeting the requirements of this provision sold and delivered for resale at retail or use.

The provisions relating to the renewable fuel standard shall be suspended during periods of declared emergencies.

It is unlawful to sell or distribute, or offer for sale or distribution, any gasoline which fails to meet the renewable fuel standard requirements. Upon determining that a terminal supplier, importer, exporter, blender, or wholesaler is not meeting the standard requirements, the Department of Revenue shall notify the Department of Agriculture and Consumer Services (DACS). Upon notification, DACS shall either grant an extension or enter an order imposing one or more of the following penalties:

- Issuance of a warning letter.
- Imposition of an administrative fine.
- Revocation or suspension of any registration issued by DACS.

Any terminal supplier, importer, exporter, blender, or wholesaler may apply to DACS by September 30, 2010 for an extension of time to comply with these provisions. The applicant for an extension must demonstrate that the applicant has made a good faith effort to comply.

The Department of Revenue and DACS are granted rulemaking authority.

**Section 55** requires the Florida Energy Commission to conduct a study to evaluate and recommend the lifecycle greenhouse gas emissions associated with all renewable fuels, including, but not limited to, biodiesel, renewable diesel, biobutanol, ethanol derived from corn, ethanol derived from sugar, and cellulosic ethanol. In addition, the study shall evaluate and recommend a requirement that all renewable fuels introduced into commerce in the state, as a result of the Renewable Fuel Standard, shall reduce the lifecycle greenhouse gas emissions by an average percentage. The study may also evaluate and recommend any benefits associated with the creation, banking, transfer, and sale of credits among fuel refiners, blenders, and importers.

The Florida Energy Commission shall submit a report with recommendation to the President of the Senate and the Speaker of the House of Representatives no later than December 31, 2010.

**Section 56** amends s. 553.77, F.S., to allow the Florida Building Commission to implement its recommendations delivered pursuant to subsection (2) of section 48 of ch. 2007-73, L.O.F., by amending the Florida Energy Efficiency Code for Building Construction. That provision in ch. 2007-73, L.O.F., required the Florida Building Commission, in consultation with the Florida Energy Commission, the Building Officials Association of Florida, the Florida Energy Office, the Florida Home Builders Association, the Association of Counties, the League of Cities, and other stakeholders, to review the Florida Energy Code for Building Construction. The Florida Building Commission was specifically required to revisit the analysis of cost-effectiveness that serves as the basis for energy efficiency levels for residential buildings, identify cost-effective means to improve energy efficiency in commercial buildings, and compare the code to the International Energy Conservation Code and the American Society of Heating Air-Conditioning and Refrigeration Engineers Standards 90.1 and 90.2. The Florida Building Commission was

required to submit a report with a standard to the Legislature by March 1, 2008 that may be adopted for the construction of all new residential, commercial and government buildings.

**Section 57** creates s. 553.886, F.S., to provide that the provisions of the Florida Building Code must facilitate and promote the use of cost-effective energy conservation, energy-demand management, and renewable energy technologies in buildings.

**Section 58** creates s. 553.9061, F.S., to establish a schedule of required increases in the energy-efficiency performance of buildings that are subject to the requirements for energy efficiency as contained in the current edition of the Florida Building Code. The Florida Building Commission shall implement the following energy-efficiency goals using the triennial code-adoption process established for updates to the Florida Building Code. The following are percentage increases in efficiency performance of new buildings as compared to the performance achieved by the implementation of the energy-efficiency provisions contained in the 2004 edition of the Florida Building Code, as amended on May 22, 2007.

- 20 percent in the 2010 edition of the Florida Building Code.
- 30 percent in the 2013 edition of the Florida Building Code.
- 40 percent in the 2016 edition of the Florida Building Code.
- 50 percent in the 2019 edition of the Florida Building Code.

The Florida Building Commission shall identify in any code-support and compliance documentation the specific building options and elements available to meet the energy-efficiency performance requirements. Specifies what energy-efficiency performance options and elements may include.

**Section 59** requires the Florida Building Commission to conduct a study to evaluate the energy-efficiency rating of new buildings and appliances. The study must include a review of the current energy-efficiency ratings and consumer labeling requirements contained in ch .553, F.S. The commission shall submit a written report of its study to the President of the Senate and the Speaker of the House of Representatives on or before February 1, 2009 which contains recommendations regarding the strengthening and integration of energy-efficiency ratings and labeling requirements.

**Section 60** requires the Florida Building Commission to conduct a study to evaluate opportunities to restructure the Florida Energy Efficiency Code for Building Construction to achieve long-range improvements to building energy performance. During the study, the commission shall address the integration of the Thermal Efficiency Code established in part V of ch. 553, F.S., and the Florida Building Energy-Efficiency Rating Act established in part VIII of ch. 553, F.S. The commission shall submit a written report of its study to the President of the Senate and the Speaker of the House of Representatives on or before February 1, 2009. These provisions expire July 1, 2009.

**Section 61** requires the Department of Community Affairs, in conjunction with the Florida Energy Affordability Coalition, to identify and review issues relating to the Low-Income Home Energy Assistance Program and the Weatherization Assistance Program, and identify certain recommendations. On or before January 1, 2009, the department shall report its findings and any

recommended statutory changes required to implement such findings to the President of the Senate and the Speaker of the House of Representatives.

**Section 62** amends s. 553.957, F.S., to provide that the provisions of part VI of ch. 553, F.S., apply to the testing, certification, and enforcement of energy conservation standards for certain specified types of new commercial and residential products sold in the state. Added to the current list of products are:

- Electric water heaters used to heat potable water in homes or businesses.
- Electric motors used to pump water within swimming pools.
- Water heaters for swimming pools.

**Section 63** amends s. 553.975, F.S., to correct a cross reference.

**Section 64** requires the PSC to analyze utility revenue decoupling and provide a report and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2009.

**Section 65** amends s. 718.113, F.S., to allow the board of administration for a condo association to install upon or within the common elements or association property solar collectors, clotheslines, or other energy-efficient devices based on renewable resources for the benefit of the unit owners.

**Section 66** creates s. 1004.648, F.S., to create the Florida Energy Systems Consortium (consortium) to promote collaboration between experts in the State University system for the purpose of developing and implementing a comprehensive, long-term, environmentally compatible, sustainable, and efficient energy strategic plan for the state. The consortium will focus on an overall broad systems approach from energy resource to consumer and for producing innovative energy systems that will lead to alternative energy strategies, improved energy efficiencies and expanded economic development for the state.

The consortium shall consist of the University of Florida, Florida State University, the University of South Florida, the University of Central Florida, and Florida Atlantic University. The consortium shall be administered at the University of Florida who shall report to an oversight board which shall consist of the Vice President for Research at each of the five universities. The oversight board shall have ultimate responsibility for both the technical performance and financial management of the consortium. In performing its activities, the consortium will collaborate with the Florida Energy Commission as well as with industry and other affected parties.

The goal of the consortium is to become a world leader in energy research, education, technology, and energy systems analysis

To promote collaboration between researchers within the State University System, with industry, and other external partners, the consortium will receive input from an external, industry-dominated advisory board. The University Council, which shall consist of one member from each university designated by the corresponding Vice President for Research, will provide guidance on vision and direction to the director. The board, the chair of the Florida Energy

Commission, and the council shall constitute the steering committee. The steering committee is responsible for establishing and assuring the success of the consortium's strategic plan.

A major focus of the consortium will be to expedite commercialization of innovative energy technologies by taking advantage of State University System energy expertise, high technology incubators, industrial parks, and industry-driven research centers to attract companies to establish manufacturing in the state and transition technologies in the state economy.

The consortium shall solicit and leverage state, federal, and private funds for the purpose of conducting education, research and development in the area of sustainable energy. The oversight board shall ensure that the consortium maintains accurate records of any funds received.

The consortium will develop specific programs targeted at preparing graduates with a background in energy, continuing education courses for technical and non-technical professionals, and modules, laboratories, and courses to be shared among the universities. The consortium will work with the Florida community college system using the Florida Advanced Technological Education Center for the coordination and design of industry-specific training programs for technicians.

By November 1 of each year, the consortium shall submit an annual report to the Governor, the President of the Senate, the Speaker of the House of Representatives and the Florida Energy Commission regarding its activities including, but not limited to, education, research, development, and deployment of alternative energy technologies.

**Section 67** provides that as a condition for the issuance of grants or other monetary awards to private companies for energy-related research or deployment projects, the DEP may require a negotiated or licensing agreement containing a stipulation requiring the return to the state of an agreed-upon amount or percentage of project profits resulting from commercialization of the product or process. The DEP shall conduct a study to determine how negotiated or licensing agreements may best be used in these situations in order for the state to earn a monetary return on energy-related products or processes that are ultimately prohibited upon commercialization. The DEP shall submit its study to the Governor, the President of the Senate and the Speaker of the House of Representative by February 1, 2009.

**Section 68** requires the DEP, in conjunction with DACS, to conduct an economic impact analysis on the effects of granting financial incentives to energy producers who use woody biomass as fuel. The DEP must present the results of the study to the President of the Senate and the Speaker of the House of Representatives.

**Section 69** provides that the long-term goal for reducing solid waste through the recycling efforts of state and local governmental entities for the state of Florida shall, by the year 2020, be a statewide average reduction of 75 percent of the amount of solid waste that was disposed of in 2007. The DEP shall, by January 1, 2010, develop a recycling program in conjunction with state and local governments which is designed to meet the reduction goal.

**Section 70** provides that when the DEP submits its proposed rules pursuant to the Climate Protection Act for ratification by the Legislature, it must submit a summary report to the

Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must describe the costs and benefits of a cap-and-trade system and must include certain other specified information.

**Section 71** provides that except as otherwise expressly provided in the act, the committee substitute will become effective upon becoming a law.

**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:

The committee substitute provides for various tax incentives to promote solar, wind, and biofuels. Specifically, it:

- Exempts any solar energy device added to a homestead from assessment. Currently, the impact is indeterminate.
- Exempts until July 1, 2012, up to \$1 million, from sale at retail the use, consumption, distribution, and storage of wind turbines.
- Provides a renewable energy technologies investment tax credit between July 1, 2008, and June 30, 2012, incurred of 75 percent of all capital costs, operation and maintenance costs, and research and development costs up to \$9 million per state fiscal year in connection with an investment in the production of wind energy. (This tax credit can be sold or transferred.)
- Increases to \$14 million from \$6.5 million the renewable energy technologies investment tax credit for production, storage, and distribution of certain biodiesel and ethanol.

Provides for an application fee for an alternate transmission line corridor:

- \$750 per mile for the corridor proposed to be located within an existing right-of-way.
- \$1,000 per mile for the corridor proposed to be located outside the existing right-of-way.

**B. Private Sector Impact:**

The committee substitute could impact future rates for electric services by:

- Requiring a 20 percent efficiency and conservation portfolio standard. Currently demand-side management programs that offset two percent growth in energy sales costs utilities \$230 million per year. Without specific information, one estimate for 20 percent load growth for energy efficiency could cost ratepayers \$2.3 billion per year.
- Creating a qualified solar energy system program. This provision allows investor owned utilities (IOU) to recover costs of solar thermal systems through the Energy Conservation Cost Recovery Clause. It further allows the IOUs to recover 10 percent of the fuel cost savings. If the level of participation in this program is high, rate impacts on electric rates could be significant. The IOU owns the renewable attributes or benefits associated with the energy output of the system including renewable energy credits.
- Requiring recovery of costs or expenses prudently incurred for scientific research and geological assessments of carbon capture and storage for the purposes of reducing a utility's greenhouse gas emissions when such costs or expenses are incurred in joint research projects with this state's government agencies and universities and for costs or expenses incurred for the quantification, reporting, and verification of greenhouse gas emissions by third parties as required for participation in emission registries. Recovery of such costs will increase ratepayers monthly bill. Without information as to the cost of the research and assessments, it is indeterminable as to the monthly costs for the ratepayer.
- Requiring the commission to establish a renewable energy portfolio standard, of which not less than three percent must be solar and located within the state. The impact on electric ratepayers would be dependent on the level of the renewable standard established, the cost of acquiring renewable resources and the design of the program and therefore indeterminate.
- Requiring the PSC to use methodologies that recognize the non-economic benefits associated with reduced energy demand from efficiency and conservation programs and that recognize the benefits associated with not constructing new generation capacity. There could be a large adverse economic impact on ratepayers if additional energy savings programs are approved that do not result in reduced cost to the utility.
- Requires DEP to adopt rules for a cap and trade to reduce greenhouse gas emissions from major emitters. The rules cannot become effective until ratified by the Legislature. If a cap and trade program is adopted, and depending upon the program adopted, it could have significant impact on electric rates.
- Expands alternative cost recovery to include the siting, design, licensing, and construction of nuclear to include operation of any new, enlarged, or relocated electrical transmission lines or facilities of any size which are necessary to serve the qualifying plant. Such recovery is allowed if the utility elects not to complete or is precluded from completing the nuclear plant. This alternative recovery reduces the investment risk of the utility, but could have a significant impact on electric rates.

The Innovation Incentive Program is amended to include alternative and renewable energy projects. Such projects are expected to provide a positive economic impact to the state, but actual impact projections are indeterminate.

The committee substitute creates a Florida Renewable Fuel Standards Act requiring transportation fuels contain specified amounts of renewable fuels. The actual impact to the consumer is indeterminate due to the volatility of fossil fuel prices and the unknown prices of the renewable fuels.

The committee substitute requires the Florida Building Commission to implement increases in thermal efficiency standards on an incremental basis. Increased initial construction and capital costs are expected to be offset by operation and maintenance costs, therefore the fiscal impact is indeterminate. However, current market and economic forces will need to adjust to this cost shift.

The changes to the Transmission Line Siting Act could lower costs to electric utilities for siting transmission and distribution lines which in turn affect electric rates.

#### C. Government Sector Impact:

The committee substitute impacts a number of state agencies, some directly and others indirectly. The agencies specifically impacted by requiring specific studies and reports include the DEP, DMS, DOT, Department of Community Affairs, and the PSC. It cannot be determined at this time whether these agencies can fulfill their responsibilities under the bill with their current resources.

The policy that buildings constructed and financed by the state be designed and constructed and to operate, maintain, and renovate existing state facilities or provide for their renovation in accordance with United States Green Building Council Leadership in energy and Environmental Design (LEED) rating system, with a goal of meeting the Platinum level rating, the Green building Initiative's Green Globes rating system, or the Florida Green Building Coalition standards will have an indeterminate short term and long term fiscal impact. It is anticipated that upfront construction costs will be higher and not insignificant, but long term operation and maintenance costs will be lower such that the overall costs will be less.

Each state government agency is to collect specified data and coordinate with the DMS. All state government agencies may incur an indeterminate fiscal impact to implement these administrative provisions set forth in the bill. It appears that the overall goal is to lower the long term and overall capital and operation and maintenance costs.

#### DMS

There would be a fiscal impact associated with the measurement and verification of energy performance contracts. Depending on the volume, DMS has indicated that it may require substantial resources over the life of each agency's contracts. The energy performance contract can last up to 20 years and could require a sufficient number of professional and mechanical engineers familiar with energy saving to conduct the



on-going measurements and verifications. The salary cost of one professional engineer is approximately \$80,000, plus benefits and expenses.

The provisions relating to green building standards for new and renovated buildings will have a cost associated with them, but cannot be determined at this time. The costs for renovations would depend on the age and condition of each building. With over 3,800 buildings in the state-owned portfolio and weighted average age for the portfolio of 40 years, many of the buildings will require substantial, and in some cases, compete, renovations to adhere to LEED-EB standards.

The DMS has indicated that the pump price of E-10 and regular unleaded gasoline are comparable for use in state vehicles. However, E-10 use will result in reduced fuel economy. It is anticipated that the reduction would be between 3 and 4 percent increase in fueling costs for state vehicles.

**DOR**

The revenue estimating conference adopted on March 14, 2008, the following estimate relating to the renewable energy source exemption from *ad valorem taxes for solar energy devices installed on real property*. The estimate assumes no change in millage rates.

	<b>FY 2008-09 Annualized</b>	<b>FY 2008-09 Cash</b>	<b>FY 2009-10 Cash</b>	<b>FY 2010-11 Cash</b>	<b>FY 2011-12 Cash</b>
Total Local Impact	(\$7.4 M)	(\$2.3 M)	(\$3.5 M)	(\$4.8 M)	(\$6.0 M)

The following is a preliminary estimate not yet adopted by the revenue estimating conference for the *sales tax exemption for wind turbines*. The committee substitute provides for a limit of \$1 million in tax each state fiscal year for all taxpayers.

<b>State Impact</b>	<b>FY 2008-09 Annualized</b>	<b>FY 2008-09 Cash</b>	<b>FY 2009-10 Cash</b>	<b>FY 2010-11 Cash</b>	<b>FY 2011-12 Cash</b>
High	(\$1.0 M)	(\$0.25 M)	(\$1.0 M)	(\$1.0 M)	(\$1.0 M)

The following relates to the increasing the corporate tax credit for renewable energy technologies from \$6.5 million to \$14 million in each fiscal year. (Estimate has not been adopted by the revenue estimating conference). Includes the \$1.5 million for commercial stationary hydrogen fuel cell from 7/1/06 to 6/30/10 and \$9 million for production of wind energy from 7/1/08 to 6/30/12.

<b>State Impact</b>	<b>FY 2008-09 Annualized</b>	<b>FY 2008-09 Cash</b>	<b>FY 2009-10 Cash</b>	<b>FY 2010-11 Cash</b>	<b>FY 2011-12 Cash</b>
High	0	(\$16.5 M)	(\$16.5 M)	(\$9 M)	(\$9 M)

**PSC**

PSC has indicated that it can implement most of its responsibilities under the committee substitute using existing resources. However, it may need additional FTE positions to implement the renewable portfolio standard provisions.

**DEP**

The DEP has indicated that the additional costs for rulemaking under the provisions of this committee substitute could be significant since it is anticipated that the DEP would need to use outside consultants and economists to assist in rule development and potential rule litigation. It is estimated that the DEP would need an additional \$500,000. Also, the committee substitute requires the DEP to report on impacts to the state's economy and low-income consumers when submitting its proposed rules relating to the Climate Protection Act to the Legislature for ratification. This may require the assistance of outside economists and other consultants and could have a significant cost to the agency.

**Florida Building Commission**

The Florida Building Commission has several study and reporting responsibilities under the provisions of this committee substitute. It is not known at this time what cost would be associated with those various studies and reports.

**Institute of Food and Agricultural Sciences (IFAS)**

The total number of buildings that the UF/IFAS has is 1,290. However, IFAS has indicated that many of the buildings IFAS owns and uses would not be able to meet the green building standards proposed by the committee substitute. For example, buildings such as greenhouses use glass or plastic walls. Pesticide storage buildings must be built to OSHA and USDA requirements, and other buildings such as pole barns (which have no walls), equipment sheds, etc. will not be able to meet these standards.

Of the buildings that IFAS has that could be subject to the green building standards, the cost per building is estimated to be \$12,500. (532 buildings x \$12,500 = \$6.65 million)

**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.)

The committee substitute is a comprehensive bill dealing with a number of energy issues. Specifically the committee substitute:

- Provides for telecommuting for employees of public employing entities.

- Provides that deed restrictions, covenants, declarations, or other similar binding agreements may not prohibit solar collectors or other energy devices based on renewable resources from being installed on buildings covered by such agreements, including condominiums.
- Provides that the future land use element of local comprehensive plans must discourage urban sprawl and the transportation circulation element must address reductions in greenhouse gas emissions.
- Provides that any solar energy device added to a homestead shall not increase the taxable value of the property.
- Provides that the sale or use of wind turbines is exempt from the sales tax up to \$1 million each fiscal year for all taxpayers.
- Increases the eligible costs relating to renewable energy technologies investment tax credits. Increases the limit of such tax credits per fiscal year from \$6.5 million to \$14 million.
- Provides that the board of trustees may delegate to the Secretary of Environmental Protection authority to grant certain easements on state lands for electric transmission and distribution lines, natural gas pipelines, or other linear facilities for which the PSC has determined a need exists or the Federal Energy Regulatory Commission has issued a Certificate of Public Convenience and Necessity.
- Provides that new and renovated state buildings strive to conform to certain green building standards.
- Clarifies the state's energy performance contracting process.
- Requires the DMS to develop a Florida Climate Friendly Preferred Products List.
- Allows the DMS to conduct an analysis of ethanol and biodiesel use by the DOT.
- Allows alternative and renewable energy projects to be eligible for innovation grants from the Office of Tourism, Trade, and Economic Development.
- Provides that DOT's rules shall provide for the placement of and access to certain electric utility transmission lines adjacent to and within the right-of-way of any DOT controlled public roads.
- Encourages each metropolitan planning organization to consider strategies that integrate transportation and land use planning to provide for sustainable development and reduce greenhouse gas emissions.
- Requires the PSC to begin rulemaking requiring electric utilities to offset 20 percent of their annual load-growth through energy efficiency and conservation measures thereby constituting an energy-efficiency portfolio standard.
- Allows public utilities to recover certain redefined environmental compliance costs.
- Provides that a public utility may recover certain costs related to the construction and preconstruction of nuclear power facilities.
- Creates a new Florida Energy Commission in the Executive Office of the Governor.
- Allows public utilities to recover certain solar energy costs.
- Provides for the establishment of a cap-and-trade program to reduce greenhouse gas emissions.
- Provides for the siting of transmission facilities on state-owned lands under certain circumstances.
- Revises certain provisions of the Transmission Line Siting Act to streamline the act.
- Provides for an application fee for alternate transmission line corridors.

- Encourages counties to form regional solutions to the capture and reuse or sale of methane gas from landfills.
- Provides that after a certain date, all gasoline sold or offered for sale in Florida must contain at least 10 percent of an agriculturally derived, denatured ethanol fuel by volume.
- Requires the Florida Energy Commission to study lifecycle greenhouse gas emissions associated with all renewable fuels.
- Requires the Florida Building Commission to implement certain changes to the Florida Energy Efficiency Code for Building Construction.
- Requires the Florida Building Commission to implement a schedule of energy-efficiency goals and update the Florida Building Code.
- Requires the Florida Building Commission to conduct a study to evaluate the energy-efficiency rating of new buildings and appliances.
- Requires the Florida Building Commission to conduct a study to evaluate opportunities to restructure the Florida Energy Efficiency Code for Building Construction to achieve long-range improvements to building energy performance.
- Requires the Department of Community Affairs to identify and review issues relating to the Low-Income Home Energy Assistance program and the Weatherization Assistance Program and identify certain recommendations.
- Requires the PSC to analyze utility revenue decoupling and provide a report and recommendations to the Governor, President of the Senate, and the Speaker of the House of Representatives.
- Allows condominium associations to install certain solar and other energy-efficient devices in the common areas.
- Creates the Florida Energy Systems Consortium within the State University System.
- Provides that as a condition for the issuance of certain grants to private companies for energy-related research, the DEP may require an agreement stipulating the return to the state of a percentage of certain proceeds or profits.
- Requires the DEP to conduct an economic impact analysis on the effects of granting financial incentives to energy producers who use woody biomass as fuel.
- Provides for a long-term solid waste recycling goal.
- Provides that when the Climate Protection Act rules are submitted to the Legislature for ratification, the DEP must also submit a summary report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the costs and benefits of a cap-and-trade system.
- Provides an effective date.

B. Amendments:

None.