

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 Budget Committee

BILL: CS/SB 2078

INTRODUCER: Communications, Energy, and Public Utilities Committee

SUBJECT: Energy

DATE: April 19, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Carter	CU	Fav/CS
2.	Betta/Pigott	Meyer, C.	BC	Pre-meeting
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

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 requires each public utility to conduct a free energy audit of the business structures of each commercial customer within its service territory. The bill requires the Department of Management Services (DMS) to develop and implement a prioritized list of buildings on which to perform energy audits and economical, energy-saving retrofits.

Finally, the bill transfers the Florida Energy and Climate Commission by a type two transfer to the new Florida Energy Office which is statutorily created as an independent office within the Department of Environmental Protection (DEP). The office is to be headed by a director appointed by the Governor and confirmed by the Senate. The office is established to be the principle economic development organization for the state on matters relating to renewable, alternative, or clean energy.

The bill provides an effective date of July 1, 2011.

This bill amends the following sections of the Florida Statutes: 366.02, 366.82, 255.252, 366.92, and 377.6015.

The bill creates section 366.95, 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

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.

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 provider⁷ to supply renewable energy to its customers either by producing it, by purchasing renewable energy itself, or by purchasing 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.

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.”

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.

Energy conservation and audits

Section 366.82(11), F.S., provides that the PSC must require each utility⁹ to offer, or to contract to offer, energy audits to its residential customers. The requirement need not 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 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 DMS 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 DMS 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.

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.

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.

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.

All findings of the commission must be made available to the DEP 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 through 403.518, F.S., known as the Florida Electrical Power Plant Siting 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.
- 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. 350.051, F.S., to codify the current law that an individual property owner can use rooftop solar equipment to produce electricity to reduce their own electric bill and can sell the excess to their utility, which is required to purchase the electricity at its full avoided cost, with purchases to be made subject to the PSC's net metering rule.

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

Section 2 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 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 3 amends s. 255.252(5), F.S., to require that the DMS, 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 4 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.

Five percent of the total costs of solar generation for which a provider is permitted recovery in any calendar year under this subsection must be added to any amounts authorized for a provider's demand-side renewable energy system projects approved by the commission pursuant to s. 366.82, F.S. At least 50 percent of this incremental amount added to the provider's demand-side renewable energy system projects in any calendar year under this subsection must be made available by the provider for incentives for solar projects of up to 10 kilowatts.

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 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. Additionally, all cost recovery must be limited to no greater than a 2 percent increase to the average monthly bill for each of the utility’s ratepayers.

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 5 creates s. 366.95, F.S., to establish a process for creating a state energy resources plan. The bill makes legislative findings, including the following.

- Florida currently has a low proportion of 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 the following.

- 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.
- 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. The analysis should identify system constraints and possible supply-side and demand-side alternatives to redress such constraint. These alternatives are to include, but not be limited to, distributed generation, energy efficiency, and conservation measures.

The bill requires that the state energy resources plan:

- Identify and assess 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.
- Identify and analyze emerging trends related to energy supply, price and demand.
- Identify potential future sites for biomass power plants and solar power plants.
- Identify potential future sites for transmission and distribution lines.
- Determine optimal percentages of fuels and technologies, both traditional and renewable, in the electric generation fleet for the next ten-year period.

- Determine 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.
- Determine whether 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.
- 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 prudence 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 bill is intended to streamline 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. The bill provides a process for determining whether to add new renewable energy resources, when to do so, what fuels and technologies to use, and who will carry out the project. The bill attempts to address issues relating to 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 6 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 by a type two transfer, pursuant to s. 20.06(2), Florida Statutes, to the Florida Energy Office.

Section 7 renames s. 377.6015, F.S., from the Florida Energy and Climate Commission (FECC) to the Florida Energy Office (office) and provides for the creation of the Florida Energy Office within the DEP as a separate budget entity exempt from the provisions of s. 20.052, F.S. It also specifies that the office is not subject to control, supervision, or direction by the department in any manner, including purchasing, transactions involving real or personal property, personnel, or budgetary matters. The office is to be headed by a director appointed by the Governor and subject to confirmation by the Senate. In addition to performing the current duties of the FECC, the office will also be required to do the following:

- Act as the principal economic development organization for the state on matters relating to renewable, alternative, or clean energy.
- Market the state as a pro-business 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, F.S., 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 8 provides an effective date of 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:

This bill will have an indeterminate negative fiscal impact on public utility companies pertaining to free energy audits of business structures for commercial business customers which in turn will be passed along to rate payers.

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	Two Percent
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	\$376,861,377

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

	2011	2012³	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 increase in a customer’s monthly bill of 0.2 to 0.3 cents per kilowatt-hour, with 75 percent of the increase attributable to solar projects and 25 percent 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 and lower in later ones.

C. Government Sector Impact:

In order for the DMS to manage the energy audits and retrofits of all state buildings, additional resources would need to be provided. According to the department, existing resources are insufficient for this increased workload and the additional need is indeterminate. The DMS has sufficient resources to continue to conduct energy audits and retrofits for department-managed facilities. It is unclear whether all state buildings or DMS managed buildings will be impacted by this bill, see technical deficiencies below, and whether this would have a workload impact to the DMS.

Currently, the Florida Energy and Climate Commission (FECC) receive administrative support services through the Executive Office of the Governor. This bill transfers the FECC to the Florida Energy Office which is created within the DEP as a separate budget entity not subject to control, supervision, or direction by the DEP. Although the bill provides that the office shall have a sufficient number of professional and administrative personnel to carry out its responsibilities, it does not provide an appropriation for this purpose. Administrative support resources are necessary for the Florida Energy Office to operate as an independent office. The additional resources that would be needed are indeterminate at this time.

Based on information provided by the Public Service Commission, this bill has an indeterminate negative fiscal impact as it relates to the development of a state energy resource plan and will require additional staffing resources.

VI. Technical Deficiencies:

The bill directs the DMS to develop a prioritized list of buildings on which to have an energy audit performed and to proceed with retrofits in order to achieve energy savings. The language is unclear related to the audit and retrofit of all state-owned buildings or only the DMS managed buildings.

Also, the bill directs the DMS to “proceed” with the retrofits after the prioritized list is developed with no reference to the process outlined in s. 489.145, F.S., relating to guaranteed energy, water, and wastewater performance savings. It is unclear as to whether s. 489.145, F.S. applies to the direction to “proceed” with the retrofits.

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.)

CS by Communications, Energy, and Public Utilities on April 4, 2011:

The committee substitute makes the following changes to the bill:

- Current law is codified that allows an individual property owner to use rooftop solar equipment to produce electricity to reduce their own electric bill and to sell the excess to their utility, which is required to purchase the electricity at its full avoided cost, with purchases to be made subject to the PSC’s net metering rule.
- Five percent of the total costs of solar generation for which an IOU is permitted recovery in any calendar year must be added to any amounts authorized for the IOU’s demand-side renewable energy system projects approved by the PSC for recovery under FEECA, with at least 50 percent of this incremental amount to be made available for incentives for solar projects of up to 10 kilowatts.
- Each IOU’s cost recovery for renewable energy projects is limited to no greater than a 2 percent increase to the average monthly bill for each of the utility’s ratepayers.
- The planning period for the state energy resources plan is reduced from twenty years to ten years.

B. Amendments:

None.