

By the Committee on Communications, Energy, and Public Utilities

579-02666-12

20122094

1                                   A bill to be entitled  
2           An act relating to energy; amending s. 186.801, F.S.;  
3           adding factors for the Public Service Commission to  
4           consider in reviewing the 10-year site plans submitted  
5           to the commission by electric utilities; amending s.  
6           212.08, F.S.; providing definitions; providing a sales  
7           tax exemption for materials used in the distribution  
8           of biodiesel, ethanol, and other renewable fuels;  
9           specifying duties of the Department of Agriculture and  
10          Consumer Services in evaluating and approving  
11          applications for the exemption; authorizing the  
12          department to adopt rules; providing for future  
13          expiration of the tax exemption; amending s. 220.192,  
14          F.S., relating to the renewable energy technologies  
15          investment tax credit; revising definitions and  
16          defining the term "renewable fuel"; increasing the  
17          amount of available tax credit each fiscal year;  
18          extending the period during which the renewable energy  
19          technologies investment tax credit is available;  
20          deleting provisions authorizing a credit for hydrogen-  
21          powered vehicles and fuel cells; authorizing the  
22          Department of Agriculture and Consumer Services to  
23          adopt rules; amending s. 220.193, F.S., relating to  
24          the Florida renewable energy production credit;  
25          extending the period during which the credit is  
26          available; specifying the amount that each applicant  
27          is eligible to receive in tax credits; amending s.  
28          255.257, F.S.; requiring the Department of Management  
29          Services to adopt rules for the state energy

579-02666-12

20122094

30 management plan, in coordination with the Department  
31 of Agriculture and Consumer Services; revising the  
32 requirements for the state energy management plan;  
33 requiring standard and uniform benchmark measures;  
34 amending s. 288.106, F.S.; redefining the term "target  
35 industry business," for purposes of a tax refund  
36 program, to exclude certain electrical utilities;  
37 creating s. 366.94, F.S.; exempting from regulation  
38 under ch. 366, F.S., the sale of electricity to the  
39 public for the purpose of electric vehicle charging  
40 stations; requiring the Florida Building Commission,  
41 in coordination with the Department of Agriculture and  
42 Consumer Services and the Public Service Commission,  
43 to adopt rules to provide uniform standards for  
44 building electric vehicle charging stations; providing  
45 that the development of uniform standards is preempted  
46 to the state; requiring the Department of Agriculture  
47 and Consumer Services to develop rules for sales at  
48 electric vehicle charging stations; requiring that the  
49 Public Service Commission study the effects of  
50 charging stations on energy consumption in the state  
51 and the effects on the grid; prohibiting the  
52 obstruction of a parking space at an electric vehicle  
53 charging station; providing a penalty; amending s.  
54 403.519, F.S.; requiring the Public Service Commission  
55 to consider the need to improve the balance of power  
56 plant fuel diversity and reduce Florida's dependence  
57 on natural gas when determining the need for a  
58 proposed power plant; amending s. 581.083, F.S.;

579-02666-12

20122094

59 including algae and blue-green algae in provisions on  
60 permitting related to nonnative plants; clarifying  
61 exemption provisions; providing greater flexibility in  
62 reducing the amount of bond required; requiring the  
63 Department of Agriculture and Consumer Services to  
64 conduct a statewide forest inventory; requiring the  
65 Department of Agriculture and Consumer Services to  
66 work with other specified entities to develop  
67 information on cost savings for energy efficiency and  
68 conservation measures and post it on the department's  
69 website; requiring the Public Service Commission to  
70 evaluate the provisions in the Florida Energy  
71 Efficiency and Conservation Act; requiring reports to  
72 the Legislature and the Executive Office of the  
73 Governor; providing an effective date.

74  
75 Be It Enacted by the Legislature of the State of Florida:

76  
77 Section 1. Subsection (2) of section 186.801, Florida  
78 Statutes, is amended to read:

79 186.801 Ten-year site plans.—

80 (2) Within 9 months after the receipt of the proposed plan,  
81 the commission shall make a preliminary study of such plan and  
82 classify it as "suitable" or "unsuitable." The commission may  
83 suggest alternatives to the plan. All findings of the commission  
84 shall be made available to the Department of Environmental  
85 Protection for its consideration at any subsequent electrical  
86 power plant site certification proceedings. It is recognized  
87 that 10-year site plans submitted by an electric utility are

579-02666-12

20122094

88 tentative information for planning purposes only and may be  
89 amended at any time at the discretion of the utility upon  
90 written notification to the commission. A complete application  
91 for certification of an electrical power plant site under  
92 chapter 403, when such site is not designated in the current 10-  
93 year site plan of the applicant, shall constitute an amendment  
94 to the 10-year site plan. In its preliminary study of each 10-  
95 year site plan, the commission shall consider such plan as a  
96 planning document and shall review:

97 (a) The need, including the need as determined by the  
98 commission, for electrical power in the area to be served.

99 (b) The effect on fuel diversity within the state.

100 (c) The anticipated environmental impact of each proposed  
101 electrical power plant site.

102 (d) Possible alternatives to the proposed plan.

103 (e) The views of appropriate local, state, and federal  
104 agencies, including the views of the appropriate water  
105 management district as to the availability of water and its  
106 recommendation as to the use by the proposed plant of salt water  
107 or fresh water for cooling purposes.

108 (f) The extent to which the plan is consistent with the  
109 state comprehensive plan.

110 (g) The plan with respect to the information of the state  
111 on energy availability and consumption.

112 (h) The amount of renewable energy resources the provider  
113 produces or purchases.

114 (i) The amount of renewable energy resources the provider  
115 plans to produce or purchase over the 10-year planning horizon  
116 and the means by which the production or purchases will be

579-02666-12

20122094

117 achieved.

118 (j) A statement describing how the production and purchase  
119 of renewable energy resources impact the provider's present and  
120 future capacity and energy needs.

121 Section 2. Paragraph (hhh) is added to subsection (7) of  
122 section 212.08, Florida Statutes, to read:

123 212.08 Sales, rental, use, consumption, distribution, and  
124 storage tax; specified exemptions.—The sale at retail, the  
125 rental, the use, the consumption, the distribution, and the  
126 storage to be used or consumed in this state of the following  
127 are hereby specifically exempt from the tax imposed by this  
128 chapter.

129 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any  
130 entity by this chapter do not inure to any transaction that is  
131 otherwise taxable under this chapter when payment is made by a  
132 representative or employee of the entity by any means,  
133 including, but not limited to, cash, check, or credit card, even  
134 when that representative or employee is subsequently reimbursed  
135 by the entity. In addition, exemptions provided to any entity by  
136 this subsection do not inure to any transaction that is  
137 otherwise taxable under this chapter unless the entity has  
138 obtained a sales tax exemption certificate from the department  
139 or the entity obtains or provides other documentation as  
140 required by the department. Eligible purchases or leases made  
141 with such a certificate must be in strict compliance with this  
142 subsection and departmental rules, and any person who makes an  
143 exempt purchase with a certificate that is not in strict  
144 compliance with this subsection and the rules is liable for and  
145 shall pay the tax. The department may adopt rules to administer

579-02666-12

20122094

146 this subsection.

147 (hhh) Equipment, machinery, and other materials for  
148 renewable energy technologies.-

149 1. As used in this paragraph, the term:

150 a. "Biodiesel" means the mono-alkyl esters of long-chain  
151 fatty acids derived from plant or animal matter for use as a  
152 source of energy and meeting the specifications for biodiesel  
153 and biodiesel blends with petroleum products as adopted by rule  
154 of the Department of Agriculture and Consumer Services.

155 Biodiesel may refer to biodiesel blends designated BXX, where XX  
156 represents the volume percentage of biodiesel fuel in the blend.

157 b. "Ethanol" means an anhydrous denatured alcohol produced  
158 by the conversion of carbohydrates meeting the specifications  
159 for fuel ethanol and fuel ethanol blends with petroleum products  
160 as adopted by rule of the Department of Agriculture and Consumer  
161 Services. Ethanol may refer to fuel ethanol blends designated  
162 EXX, where XX represents the volume percentage of fuel ethanol  
163 in the blend.

164 c. "Renewable fuel" means a fuel that has been approved by  
165 the United States Environmental Protection Agency, that is  
166 produced from biomass as defined in s. 366.91(2)(a), and that is  
167 used to replace or reduce the quantity of fossil fuel present in  
168 a transportation fuel.

169 2. The sale or use of the following materials in the state  
170 is exempt from the tax imposed by this chapter. Materials used  
171 in the distribution of biodiesel (B10-B100), ethanol (E10-E100),  
172 and other renewable fuels, including fueling infrastructure,  
173 transportation, and storage, are exempt up to a limit of \$1  
174 million in tax each state fiscal year for all taxpayers.

579-02666-12

20122094

175 Gasoline fueling station pump retrofits for biodiesel (B10-  
176 B100), ethanol (E10-E100), and other renewable fuels  
177 distribution qualify for the exemption provided in this  
178 paragraph.

179 3. The Department of Agriculture and Consumer Services  
180 shall provide to the department a list of items eligible for the  
181 exemption provided in this paragraph.

182 4.a. The exemption provided in this paragraph is available  
183 to a purchaser only through a refund of previously paid taxes.  
184 An eligible item is subject to refund one time. A person who has  
185 received a refund on an eligible item must notify the next  
186 purchaser of the item that the item is not eligible for a refund  
187 of paid taxes. The notification must be provided to each  
188 subsequent purchaser on the sales invoice or other proof of  
189 purchase.

190 b. To be eligible to receive the exemption provided in this  
191 paragraph, a purchaser must file an application with the  
192 Department of Agriculture and Consumer Services. The application  
193 shall be developed by the Department of Agriculture and Consumer  
194 Services, in consultation with the department, and must require:

195 (I) The name and address of the person claiming the refund.

196 (II) A specific description of the purchase for which a  
197 refund is sought, including, when applicable, a serial number or  
198 other permanent identification number.

199 (III) The sales invoice or other proof of purchase showing  
200 the amount of sales tax paid, the date of purchase, and the name  
201 and address of the sales tax dealer from whom the property was  
202 purchased.

203 (IV) A sworn statement that the information provided is

579-02666-12

20122094

204 accurate and that the requirements of this paragraph have been  
205 met.

206 c. Within 30 days after receipt of an application, the  
207 Department of Agriculture and Consumer Services shall evaluate  
208 the application and notify the applicant of any deficiencies.  
209 Upon receipt of a completed application, the Department of  
210 Agriculture and Consumer Services shall evaluate the application  
211 for the exemption and issue a written certification that the  
212 applicant is eligible for a refund or issue a written denial of  
213 the certification. The Department of Agriculture and Consumer  
214 Services shall provide the department a copy of each  
215 certification issued upon approval of an application.

216 d. Each certified applicant is responsible for forwarding a  
217 certified copy of the application and copies of all required  
218 documentation to the department within 6 months after  
219 certification by the Department of Agriculture and Consumer  
220 Services.

221 e. A refund approved pursuant to this paragraph must be  
222 made within 30 days after approval by the department.

223 f. The Department of Agriculture and Consumer Services may  
224 adopt by rule the form for the application for a certificate,  
225 requirements for the content and format of information submitted  
226 to the Department of Agriculture and Consumer Services in  
227 support of the application, other procedural requirements, and  
228 criteria by which the application will be determined. The  
229 department may adopt all other rules pursuant to ss. 120.536(1)  
230 and 120.54 to administer this paragraph, including rules  
231 establishing additional forms and procedures for claiming the  
232 exemption.



579-02666-12

20122094

233 g. The Department of Agriculture and Consumer Services  
234 shall ensure that the total amount of the exemptions authorized  
235 do not exceed the limits specified in subparagraph 2.

236 5. Approval of the exemptions under this paragraph is on a  
237 first-come, first-served basis, based upon the date complete  
238 applications are received by the Department of Agriculture and  
239 Consumer Services. Incomplete placeholder applications will not  
240 be accepted and will not secure a place in the first-come,  
241 first-served application line. The Department of Agriculture and  
242 Consumer Services shall determine and publish on its website on  
243 a regular basis the amount of sales tax funds remaining in each  
244 fiscal year.

245 6. This paragraph expires July 1, 2016.

246 Section 3. Subsections (1), (2), (6), (7), and (8) of  
247 section 220.192, Florida Statutes, is amended to read:

248 220.192 Renewable energy technologies investment tax  
249 credit.—

250 (1) DEFINITIONS.—For purposes of this section, the term:

251 (a) "Biodiesel" means biodiesel as defined in s.  
252 212.08(7)(hhh) former s. 212.08(7)(ccc).

253 (b) "Corporation" includes a general partnership, limited  
254 partnership, limited liability company, unincorporated business,  
255 or other business entity, including entities taxed as  
256 partnerships for federal income tax purposes.

257 (c) "Eligible costs" means÷

258 ~~1. Seventy five percent of all capital costs, operation and~~  
259 ~~maintenance costs, and research and development costs incurred~~  
260 ~~between July 1, 2006, and June 30, 2010, up to a limit of \$3~~  
261 ~~million per state fiscal year for all taxpayers, in connection~~

579-02666-12

20122094

262 ~~with an investment in hydrogen-powered vehicles and hydrogen~~  
263 ~~vehicle fueling stations in the state, including, but not~~  
264 ~~limited to, the costs of constructing, installing, and equipping~~  
265 ~~such technologies in the state.~~

266 ~~2. Seventy-five percent of all capital costs, operation and~~  
267 ~~maintenance costs, and research and development costs incurred~~  
268 ~~between July 1, 2006, and June 30, 2010, up to a limit of \$1.5~~  
269 ~~million per state fiscal year for all taxpayers, and limited to~~  
270 ~~a maximum of \$12,000 per fuel cell, in connection with an~~  
271 ~~investment in commercial stationary hydrogen fuel cells in the~~  
272 ~~state, including, but not limited to, the costs of constructing,~~  
273 ~~installing, and equipping such technologies in the state.~~

274 ~~3.~~ seventy-five percent of all capital costs, operation and  
275 maintenance costs, and research and development costs incurred  
276 between July 1, 2012, and July 1, 2016 ~~July 1, 2006, and June~~  
277 ~~30, 2010,~~ up to a limit of \$10 ~~\$6.5~~ million per state fiscal  
278 year for all taxpayers, in connection with an investment in the  
279 production, storage, and distribution of biodiesel (B10-B100),  
280 ~~and ethanol (E10-E100),~~ and renewable fuel in the state,  
281 including the costs of constructing, installing, and equipping  
282 such technologies in the state. Gasoline fueling station pump  
283 retrofits for ethanol (E10-E100) distribution qualify as an  
284 eligible cost under this subparagraph. Each applicant is  
285 eligible to receive up to \$1 million in tax credits.

286 (d) "Ethanol" means ethanol as defined in s. 212.08(7)(hhh)  
287 ~~former s. 212.08(7)(ccc).~~

288 (e) "Renewable fuel" means a fuel that has been approved by  
289 the United States Environmental Protection Agency, that is  
290 produced from biomass as defined in s. 366.91(2)(a), and that is

579-02666-12

20122094

291 used to replace or reduce the quantity of fossil fuel present in  
292 a transportation fuel.

293 ~~(c) "Hydrogen fuel cell" means hydrogen fuel cell as~~  
294 ~~defined in former s. 212.08(7)(ccc).~~

295 (f) "Taxpayer" includes a corporation as defined in  
296 paragraph (b) or s. 220.03.

297 (2) TAX CREDIT.—For tax years beginning on or after January  
298 1, 2013 ~~January 1, 2007~~, a credit against the tax imposed by  
299 this chapter shall be granted in an amount equal to the eligible  
300 costs. Credits may be used in tax years beginning January 1,  
301 2013 ~~January 1, 2007~~, and ending December 31, 2016 ~~December 31,~~  
302 ~~2010~~, after which the credit shall expire. If the credit is not  
303 fully used in any one tax year because of insufficient tax  
304 liability on the part of the corporation, the unused amount may  
305 be carried forward and used in tax years beginning January 1,  
306 2013 ~~January 1, 2007~~, and ending December 31, 2018 ~~December 31,~~  
307 ~~2012~~, after which the credit carryover expires and may not be  
308 used. A taxpayer that files a consolidated return in this state  
309 as a member of an affiliated group under s. 220.131(1) may be  
310 allowed the credit on a consolidated return basis up to the  
311 amount of tax imposed upon the consolidated group. Any eligible  
312 cost for which a credit is claimed and which is deducted or  
313 otherwise reduces federal taxable income shall be added back in  
314 computing adjusted federal income under s. 220.13.

315 (6) TRANSFERABILITY OF CREDIT.—

316 (a) For tax years beginning on or after January 1, 2014  
317 ~~January 1, 2009~~, any corporation or subsequent transferee  
318 allowed a tax credit under this section may transfer the credit,  
319 in whole or in part, to any taxpayer by written agreement

579-02666-12

20122094

320 without transferring any ownership interest in the property  
321 generating the credit or any interest in the entity owning such  
322 property. The transferee is entitled to apply the credits  
323 against the tax with the same effect as if the transferee had  
324 incurred the eligible costs.

325 (b) To perfect the transfer, the transferor shall provide  
326 the Department of Revenue with a written transfer statement  
327 notifying the Department of Revenue of the transferor's intent  
328 to transfer the tax credits to the transferee; the date the  
329 transfer is effective; the transferee's name, address, and  
330 federal taxpayer identification number; the tax period; and the  
331 amount of tax credits to be transferred. The Department of  
332 Revenue shall, upon receipt of a transfer statement conforming  
333 to the requirements of this section, provide the transferee with  
334 a certificate reflecting the tax credit amounts transferred. A  
335 copy of the certificate must be attached to each tax return for  
336 which the transferee seeks to apply such tax credits.

337 (c) A tax credit authorized under this section that is held  
338 by a corporation and not transferred under this subsection shall  
339 be passed through to the taxpayers designated as partners,  
340 members, or owners, respectively, in the manner agreed to by  
341 such persons regardless of whether such partners, members, or  
342 owners are allocated or allowed any portion of the federal  
343 energy tax credit for the eligible costs. A corporation that  
344 passes the credit through to a partner, member, or owner must  
345 comply with the notification requirements described in paragraph  
346 (b). The partner, member, or owner must attach a copy of the  
347 certificate to each tax return on which the partner, member, or  
348 owner claims any portion of the credit.

579-02666-12

20122094

349 (7) RULES.—The Department of Revenue in coordination with  
350 the Department of Agriculture and Consumer Services shall have  
351 the authority to adopt rules pursuant to ss. 120.536(1) and  
352 120.54 to administer this section, including rules relating to:

353 (a) The forms required to claim a tax credit under this  
354 section, the requirements and basis for establishing an  
355 entitlement to a credit, and the examination and audit  
356 procedures required to administer this section.

357 (b) The implementation and administration of the provisions  
358 allowing a transfer of a tax credit, including rules prescribing  
359 forms, reporting requirements, and specific procedures,  
360 guidelines, and requirements necessary to transfer a tax credit.

361 (8) PUBLICATION.—The Department of Agriculture and Consumer  
362 Services shall determine and publish on its website on a regular  
363 basis the amount of available tax credits remaining in each  
364 fiscal year.

365 Section 4. Section 220.193, Florida Statutes, is amended to  
366 read:

367 220.193 Florida renewable energy production credit.—

368 (1) The purpose of this section is to encourage the  
369 development and expansion of facilities that produce renewable  
370 energy in Florida.

371 (2) As used in this section, the term:

372 (a) "Commission" shall mean the Public Service Commission.

373 (b) "Department" shall mean the Department of Revenue.

374 (c) "Expanded facility" shall mean a Florida renewable  
375 energy facility that increases its electrical production and  
376 sale by more than 5 percent above the facility's electrical  
377 production and sale during the 2011 ~~2005~~ calendar year.

579-02666-12

20122094

378 (d) "Florida renewable energy facility" shall mean a  
379 facility in the state that produces electricity for sale from  
380 renewable energy, as defined in s. 377.803.

381 (e) "New facility" shall mean a Florida renewable energy  
382 facility that is operationally placed in service after May 1,  
383 2012 ~~2006~~.

384 (f) "Sale" or "sold" includes the use of electricity by the  
385 producer of such electricity which decreases the amount of  
386 electricity that the producer would otherwise have to purchase.

387 (g) "Taxpayer" includes a general partnership, limited  
388 partnership, limited liability company, trust, or other  
389 artificial entity in which a corporation, as defined in s.  
390 220.03(1)(e), owns an interest and is taxed as a partnership or  
391 is disregarded as a separate entity from the corporation under  
392 this chapter.

393 (3) An annual credit against the tax imposed by this  
394 section shall be allowed to a taxpayer, based on the taxpayer's  
395 production and sale of electricity from a new or expanded  
396 Florida renewable energy facility. For a new facility, the  
397 credit shall be based on the taxpayer's sale of the facility's  
398 entire electrical production. For an expanded facility, the  
399 credit shall be based on the increases in the facility's  
400 electrical production that are achieved after May 1, 2012 ~~2006~~.

401 Each applicant is eligible to receive up to \$500,000 in tax  
402 credits.

403 (a) The credit shall be \$0.01 for each kilowatt-hour of  
404 electricity produced and sold by the taxpayer to an unrelated  
405 party during a given tax year.

406 (b) The credit may be claimed for electricity produced and

579-02666-12

20122094

407 sold on or after January 1, 2013 ~~2007~~. Beginning in 2014 ~~2008~~  
408 and continuing until 2017 ~~2011~~, each taxpayer claiming a credit  
409 under this section must first apply to the department by  
410 February 1 of each year for an allocation of available credit.  
411 The department, in consultation with the commission, shall  
412 develop an application form. The application form shall, at a  
413 minimum, require a sworn affidavit from each taxpayer certifying  
414 the increase in production and sales that form the basis of the  
415 application and certifying that all information contained in the  
416 application is true and correct.

417 (c) If the amount of credits applied for each year exceeds  
418 \$5 million, the department shall award to each applicant a  
419 prorated amount based on each applicant's increased production  
420 and sales and the increased production and sales of all  
421 applicants.

422 (d) If the credit granted pursuant to this section is not  
423 fully used in one year because of insufficient tax liability on  
424 the part of the taxpayer, the unused amount may be carried  
425 forward for a period not to exceed 5 years. The carryover credit  
426 may be used in a subsequent year when the tax imposed by this  
427 chapter for such year exceeds the credit for such year, after  
428 applying the other credits and unused credit carryovers in the  
429 order provided in s. 220.02(8).

430 (e) A taxpayer that files a consolidated return in this  
431 state as a member of an affiliated group under s. 220.131(1) may  
432 be allowed the credit on a consolidated return basis up to the  
433 amount of tax imposed upon the consolidated group.

434 (f)1. Tax credits that may be available under this section  
435 to an entity eligible under this section may be transferred

579-02666-12

20122094

436 after a merger or acquisition to the surviving or acquiring  
437 entity and used in the same manner with the same limitations.

438 2. The entity or its surviving or acquiring entity as  
439 described in subparagraph 1. may transfer any unused credit in  
440 whole or in units of no less than 25 percent of the remaining  
441 credit. The entity acquiring such credit may use it in the same  
442 manner and with the same limitations under this section. Such  
443 transferred credits may not be transferred again although they  
444 may succeed to a surviving or acquiring entity subject to the  
445 same conditions and limitations as described in this section.

446 3. In the event the credit provided for under this section  
447 is reduced as a result of an examination or audit by the  
448 department, such tax deficiency shall be recovered from the  
449 first entity or the surviving or acquiring entity to have  
450 claimed such credit up to the amount of credit taken. Any  
451 subsequent deficiencies shall be assessed against any entity  
452 acquiring and claiming such credit, or in the case of multiple  
453 succeeding entities in the order of credit succession.

454 (g) Notwithstanding any other provision of this section,  
455 credits for the production and sale of electricity from a new or  
456 expanded Florida renewable energy facility may be earned between  
457 January 1, 2013 ~~2007~~, and June 30, 2016 ~~2010~~. The combined total  
458 amount of tax credits which may be granted for all taxpayers  
459 under this section is limited to \$5 million per state fiscal  
460 year.

461 (h) A taxpayer claiming a credit under this section shall  
462 be required to add back to net income that portion of its  
463 business deductions claimed on its federal return paid or  
464 incurred for the taxable year which is equal to the amount of



579-02666-12

20122094

465 the credit allowable for the taxable year under this section.

466 (i) A taxpayer claiming credit under this section may not  
467 claim a credit under s. 220.192. A taxpayer claiming credit  
468 under s. 220.192 may not claim a credit under this section.

469 (j) When an entity treated as a partnership or a  
470 disregarded entity under this chapter produces and sells  
471 electricity from a new or expanded renewable energy facility,  
472 the credit earned by such entity shall pass through in the same  
473 manner as items of income and expense pass through for federal  
474 income tax purposes. When an entity applies for the credit and  
475 the entity has received the credit by a pass-through, the  
476 application must identify the taxpayer that passed the credit  
477 through, all taxpayers that received the credit, and the  
478 percentage of the credit that passes through to each recipient  
479 and must provide other information that the department requires.

480 (k) A taxpayer's use of the credit granted pursuant to this  
481 section does not reduce the amount of any credit available to  
482 such taxpayer under s. 220.186.

483 (4) The department may adopt rules to implement and  
484 administer this section, including rules prescribing forms, the  
485 documentation needed to substantiate a claim for the tax credit,  
486 and the specific procedures and guidelines for claiming the  
487 credit.

488 (5) This section shall take effect upon becoming law and  
489 shall apply to tax years beginning on and after January 1, 2013  
490 ~~2007~~.

491 Section 5. Section 255.257, Florida Statutes, is amended to  
492 read:

493 255.257 Energy management; buildings occupied by state

579-02666-12

20122094

494 agencies.—

495 (1) ENERGY CONSUMPTION AND COST DATA.—Each state agency  
496 shall collect data on energy consumption and cost. The data  
497 gathered shall be on state-owned facilities and metered state-  
498 leased facilities that are used by the state and are 5,000  
499 square feet or more of conditioned space ~~of 5,000 net square~~  
500 ~~feet or more~~. These data will be used in the computation of the  
501 effectiveness of the state energy management plan and the  
502 effectiveness of the energy management program of each of the  
503 state agencies. Collected data shall be reported annually to the  
504 department in a format prescribed by the department.

505 (2) ENERGY MANAGEMENT COORDINATORS.—Each state agency, the  
506 Florida Public Service Commission, the Department of Military  
507 Affairs, and the judicial branch shall appoint a coordinator  
508 whose responsibility shall be to advise the head of the state  
509 agency on matters relating to energy consumption in facilities  
510 under the control of that head or in space occupied by the  
511 various units comprising that state agency, in vehicles operated  
512 by that state agency, and in other energy-consuming activities  
513 of the state agency. The coordinator shall implement the energy  
514 management program agreed upon by the state agency concerned and  
515 assist the department in the development of the State Energy  
516 Management Plan.

517 (3) CONTENTS OF THE STATE ENERGY MANAGEMENT PLAN.—The  
518 Department of Management Services, in coordination with the  
519 Department of Agriculture and Consumer Services, shall adopt  
520 rules and forms for the development of the ~~develop a~~ state  
521 energy management plan consisting of, but not limited to, the  
522 following elements:

579-02666-12

20122094

- 523 (a) Data-gathering requirements;
- 524 (b) Standard and uniform benchmark requirements as a
- 525 measure to evaluate the energy efficiency of state-owned and
- 526 state-leased buildings;
- 527 (c) ~~(b)~~ Building energy audit procedures;
- 528 (d) ~~(e)~~ Standard and uniform data analysis and reporting
- 529 procedures;
- 530 (e) ~~(d)~~ Employee energy education program measures;
- 531 (f) ~~(e)~~ Energy consumption reduction techniques;
- 532 (g) ~~(f)~~ Training program for state agency energy management
- 533 coordinators; and
- 534 (h) ~~(g)~~ Guidelines for building managers.

535

536 The plan shall include a description of actions that state

537 agencies shall take to reduce consumption of electricity and

538 nonrenewable energy sources used for space heating and cooling,

539 ventilation, lighting, water heating, and transportation.

540 (4) ADOPTION OF STANDARDS.—

541 (a) Each ~~All~~ state agency ~~agencies~~ shall adopt a standard

542 and uniform statewide sustainable building rating system or use

543 a national model green building code for all new buildings and

544 renovations to existing buildings.

545 (b) A ~~No~~ state agency may not ~~shall~~ enter into new leasing

546 agreements for office space that does not meet Energy Star

547 building standards, except when the appropriate state agency

548 head determines that no other viable or cost-effective

549 alternative exists.

550 (c) Each ~~All~~ state agency ~~agencies~~ shall develop energy

551 conservation measures and guidelines for new and existing office

579-02666-12

20122094

552 space where state agencies occupy ~~more than~~ 5,000 square feet or  
553 more of conditioned space. These conservation measures shall  
554 focus on programs that may reduce energy consumption and, when  
555 established, provide a net reduction in occupancy costs.

556 Section 6. Paragraph (q) of subsection (2) of section  
557 288.106, Florida Statutes, is amended to read:

558 288.106 Tax refund program for qualified target industry  
559 businesses.—

560 (2) DEFINITIONS.—As used in this section:

561 (q) "Target industry business" means a corporate  
562 headquarters business or any business that is engaged in one of  
563 the target industries identified pursuant to the following  
564 criteria developed by the department in consultation with  
565 Enterprise Florida, Inc.:

566 1. Future growth.—Industry forecasts should indicate strong  
567 expectation for future growth in both employment and output,  
568 according to the most recent available data. Special  
569 consideration should be given to businesses that export goods  
570 to, or provide services in, international markets and businesses  
571 that replace domestic and international imports of goods or  
572 services.

573 2. Stability.—The industry should not be subject to  
574 periodic layoffs, whether due to seasonality or sensitivity to  
575 volatile economic variables such as weather. The industry should  
576 also be relatively resistant to recession, so that the demand  
577 for products of this industry is not typically subject to  
578 decline during an economic downturn.

579 3. High wage.—The industry should pay relatively high wages  
580 compared to statewide or area averages.

579-02666-12

20122094

581 4. Market and resource independent.—The location of  
582 industry businesses should not be dependent on Florida markets  
583 or resources as indicated by industry analysis, except for  
584 businesses in the renewable energy industry.

585 5. Industrial base diversification and strengthening.—The  
586 industry should contribute toward expanding or diversifying the  
587 state's or area's economic base, as indicated by analysis of  
588 employment and output shares compared to national and regional  
589 trends. Special consideration should be given to industries that  
590 strengthen regional economies by adding value to basic products  
591 or building regional industrial clusters as indicated by  
592 industry analysis. Special consideration should also be given to  
593 the development of strong industrial clusters that include  
594 defense and homeland security businesses.

595 6. Positive economic impact.—The industry is expected to  
596 have strong positive economic impacts on or benefits to the  
597 state or regional economies. Special consideration should be  
598 given to industries that facilitate the development of the state  
599 as a hub for domestic and global trade and logistics.

600  
601 The term does not include any business engaged in retail  
602 industry activities; any electrical utility company as defined  
603 in s. 366.02(2); any phosphate or other solid minerals  
604 severance, mining, or processing operation; any oil or gas  
605 exploration or production operation; or any business subject to  
606 regulation by the Division of Hotels and Restaurants of the  
607 Department of Business and Professional Regulation. Any business  
608 within NAICS code 5611 or 5614, office administrative services  
609 and business support services, respectively, may be considered a

579-02666-12

20122094

610 target industry business only after the local governing body and  
611 Enterprise Florida, Inc., make a determination that the  
612 community where the business may locate has conditions affecting  
613 the fiscal and economic viability of the local community or  
614 area, including but not limited to, factors such as low per  
615 capita income, high unemployment, high underemployment, and a  
616 lack of year-round stable employment opportunities, and such  
617 conditions may be improved by the location of such a business to  
618 the community. By January 1 of every 3rd year, beginning January  
619 1, 2011, the department, in consultation with Enterprise  
620 Florida, Inc., economic development organizations, the State  
621 University System, local governments, employee and employer  
622 organizations, market analysts, and economists, shall review  
623 and, as appropriate, revise the list of such target industries  
624 and submit the list to the Governor, the President of the  
625 Senate, and the Speaker of the House of Representatives.

626 Section 7. Section 366.94, Florida Statutes, is created to  
627 read:

628 366.94 Electric vehicle charging stations.-

629 (1) Providing electric vehicle charging service to the  
630 public is not the retail sale of electricity for the purposes of  
631 this chapter and the rates, terms, and conditions of electric  
632 vehicle charging services are not subject to regulation under  
633 this chapter regardless of the provider. This section does not  
634 affect the ability of an individual, business, or governmental  
635 entity to acquire, install, or use an electric vehicle charger  
636 for its own use for its own vehicle.

637 (2) The Florida Building Commission, in coordination with  
638 the Department of Agriculture and Consumer Services and the

579-02666-12

20122094

639 Public Service Commission, shall develop rules to provide  
640 uniform standards for building and electric codes, local  
641 permitting, and the installation of electric vehicle charging  
642 stations. The development of these standards is expressly  
643 preempted to the state and any local governmental entity  
644 enforcing the subject areas of the standards established by this  
645 section must use the standards set forth pursuant to this  
646 section.

647 (3) The Department of Agriculture and Consumer Services  
648 shall adopt rules to provide definitions, methods of sale,  
649 labeling requirements, and price-posting requirements for  
650 electric vehicle charging stations in order to provide  
651 consistency for consumers and the industry.

652 (4) The Public Service Commission shall conduct a study of  
653 the effects of the charging stations on energy consumption in  
654 this state and the effects on the grid. The Public Service  
655 Commission shall also investigate the feasibility of using off-  
656 grid solar photovoltaic power as a source of electricity for  
657 electric vehicle charging stations.

658 (5) It is unlawful for a person to stop, stand, or park a  
659 vehicle that is not capable of using an electrical recharging  
660 station within any parking space specifically designated for  
661 charging an electric vehicle. If a law enforcement officer finds  
662 a motor vehicle in violation of this subsection, the officer or  
663 specialist shall charge the operator or other person in charge  
664 of the vehicle in violation with a noncriminal traffic  
665 infraction, punishable as provided in s. 316.008(4) or s.  
666 318.18.

667 Section 8. Subsection (3) of section 403.519, Florida

579-02666-12

20122094

668 Statutes, is amended to read:

669 403.519 Exclusive forum for determination of need.—

670 (3) The commission is ~~shall be~~ the sole forum for the  
671 determination of this matter, which accordingly may ~~shall~~ not be  
672 raised in any other forum or in the review of proceedings in  
673 such other forum. In making its determination, the commission  
674 shall take into account the need for electric system reliability  
675 and integrity, the need for adequate electricity at a reasonable  
676 cost, the need to improve the balance of power plant fuel  
677 diversity and reduce the state's dependence on natural gas, fuel  
678 ~~for fuel diversity and~~ supply reliability, whether the proposed  
679 plant is the most cost-effective alternative available, and  
680 whether renewable energy sources and technologies, as well as  
681 conservation measures, are used ~~utilized~~ to the extent  
682 reasonably available. The commission shall also expressly  
683 consider the conservation measures taken by or reasonably  
684 available to the applicant or its members which might mitigate  
685 the need for the proposed plant and other matters within its  
686 jurisdiction which it deems relevant. The commission's  
687 determination of need for an electrical power plant creates  
688 ~~shall create~~ a presumption of public need and necessity and  
689 serves ~~shall serve~~ as the commission's report required by s.  
690 403.507(4). An order entered pursuant to this section  
691 constitutes final agency action.

692 Section 9. Subsection (4) of section 581.083, Florida  
693 Statutes, is amended to read:

694 581.083 Introduction or release of plant pests, noxious  
695 weeds, or organisms affecting plant life; cultivation of  
696 nonnative plants; special permit and security required.—



579-02666-12

20122094

697 (4) A person may not cultivate a nonnative plant, algae, or  
698 blue-green algae, including a genetically engineered plant,  
699 algae, or blue-green algae ~~or a plant that has been introduced,~~  
700 ~~for purposes of fuel production or purposes other than~~  
701 ~~agriculture~~ in plantings greater in size than 2 contiguous  
702 acres, except under a special permit issued by the department  
703 through the division, which is the sole agency responsible for  
704 issuing such special permits. ~~The~~ Such a permit is ~~shall~~ not be  
705 required if the department determines, after consulting ~~in~~  
706 ~~conjunction~~ with the Institute of Food and Agricultural Sciences  
707 at the University of Florida, that, based on experience or  
708 research data, the nonnative plant, algae, or blue-green algae  
709 does not pose a known threat of becoming an ~~is not~~ invasive  
710 species or a pest of plants or native fauna under conditions in  
711 this state, and if the department ~~and~~ subsequently exempts the  
712 plant by rule.

713 (a)1. Each application for a special permit must be  
714 accompanied by a fee as described in subsection (2) and proof  
715 that the applicant has obtained, on a form approved by the  
716 department, a bond ~~in the form approved by the department and~~  
717 issued by a surety company admitted to do business in this  
718 state, ~~or~~ a certificate of deposit, or other type of security  
719 adopted by rule of the department which provides a financial  
720 assurance of cost-recovery for the removal of a planting. The  
721 application must include, on a form provided by the department,  
722 the name of the applicant and the applicant's address or the  
723 address of the applicant's principal place of business; a  
724 statement completely identifying the nonnative plant to be  
725 cultivated; and a statement of the estimated cost of removing

579-02666-12

20122094

726 and destroying the plant that is the subject of the special  
727 permit and the basis for calculating or determining that  
728 estimate. If the applicant is a corporation, partnership, or  
729 other business entity, the applicant must also provide in the  
730 application the name and address of each officer, partner, or  
731 managing agent. The applicant shall notify the department within  
732 10 business days after ~~of~~ any change of address or change in the  
733 principal place of business. The department shall mail all  
734 notices to the applicant's last known address.

735 2. As used in this subsection, the term "certificate of  
736 deposit" means a certificate of deposit at any recognized  
737 financial institution doing business in the United States. The  
738 department may not accept a certificate of deposit in connection  
739 with the issuance of a special permit unless the issuing  
740 institution is properly insured by the Federal Deposit Insurance  
741 Corporation or the Federal Savings and Loan Insurance  
742 Corporation.

743 (b) Upon obtaining a permit, the permitholder may annually  
744 cultivate and maintain the nonnative plants as authorized by the  
745 special permit. If the permitholder ceases to maintain or  
746 cultivate the plants authorized by the special permit, if the  
747 permit expires, or if the permitholder ceases to abide by the  
748 conditions of the special permit, the permitholder shall  
749 immediately remove and destroy the plants that are subject to  
750 the permit, if any remain. The permitholder shall notify the  
751 department of the removal and destruction of the plants within  
752 10 days after such event.

753 (c) If the department:

754 1. Determines that the permitholder is no longer

579-02666-12

20122094

755 maintaining or cultivating the plants subject to the special  
756 permit and has not removed and destroyed the plants authorized  
757 by the special permit;

758 2. Determines that the continued maintenance or cultivation  
759 of the plants presents an imminent danger to public health,  
760 safety, or welfare;

761 3. Determines that the permitholder has exceeded the  
762 conditions of the authorized special permit; or

763 4. Receives a notice of cancellation of the surety bond,  
764

765 the department may issue an immediate final order, which shall  
766 be immediately appealable or enjoicable as provided by chapter  
767 120, directing the permitholder to immediately remove and  
768 destroy the plants authorized to be cultivated under the special  
769 permit. A copy of the immediate final order must ~~shall~~ be mailed  
770 to the permitholder and to the surety company or financial  
771 institution that has provided security for the special permit,  
772 if applicable.

773 (d) If, upon issuance by the department of an immediate  
774 final order to the permitholder, the permitholder fails to  
775 remove and destroy the plants subject to the special permit  
776 within 60 days after issuance of the order, or such shorter  
777 period as is designated in the order as public health, safety,  
778 or welfare requires, the department may enter the cultivated  
779 acreage and remove and destroy the plants that are the subject  
780 of the special permit. If the permitholder makes a written  
781 request to the department for an extension of time to remove and  
782 destroy the plants that demonstrates specific facts showing why  
783 the plants could not reasonably be removed and destroyed in the

579-02666-12

20122094

784 applicable timeframe, the department may extend the time for  
785 removing and destroying plants subject to a special permit. The  
786 reasonable costs and expenses incurred by the department for  
787 removing and destroying plants subject to a special permit shall  
788 be reimbursed to the department by the permitholder within 21  
789 days after the date the permitholder and the surety company or  
790 financial institution are served a copy of the department's  
791 invoice for the costs and expenses incurred by the department to  
792 remove and destroy the cultivated plants, along with a notice of  
793 administrative rights, unless the permitholder or the surety  
794 company or financial institution object to the reasonableness of  
795 the invoice. In the event of an objection, the permitholder or  
796 surety company or financial institution is entitled to an  
797 administrative proceeding as provided by chapter 120. Upon entry  
798 of a final order determining the reasonableness of the incurred  
799 costs and expenses, the permitholder has ~~shall have~~ 15 days  
800 after ~~following~~ service of the final order to reimburse the  
801 department. Failure of the permitholder to timely reimburse the  
802 department for the incurred costs and expenses entitles the  
803 department to reimbursement from the applicable bond or  
804 certificate of deposit.

805 (e) Each permitholder shall maintain for each separate  
806 growing location a bond or a certificate of deposit in an amount  
807 determined by the department, but not more ~~less~~ than 150 percent  
808 of the estimated cost of removing and destroying the cultivated  
809 plants. The bond or certificate of deposit may not exceed \$5,000  
810 per acre, unless a higher amount is determined by the department  
811 to be necessary to protect the public health, safety, and  
812 welfare or unless an exemption is granted by the department

579-02666-12

20122094

813 based on conditions specified in the application which would  
814 preclude the department from incurring the cost of removing and  
815 destroying the cultivated plants and would prevent injury to the  
816 public health, safety, and welfare. The aggregate liability of  
817 the surety company or financial institution to all persons for  
818 all breaches of the conditions of the bond or certificate of  
819 deposit may not exceed the amount of the bond or certificate of  
820 deposit. The original bond or certificate of deposit required by  
821 this subsection must ~~shall~~ be filed with the department. A  
822 surety company shall give the department 30 days' written notice  
823 of cancellation, by certified mail, in order to cancel a bond.  
824 Cancellation of a bond does not relieve a surety company of  
825 liability for paying to the department all costs and expenses  
826 incurred or to be incurred for removing and destroying the  
827 permitted plants covered by an immediate final order authorized  
828 under paragraph (c). A bond or certificate of deposit must be  
829 provided or assigned in the exact name in which an applicant  
830 applies for a special permit. The penal sum of the bond or  
831 certificate of deposit to be furnished to the department by a  
832 permitholder in the amount specified in this paragraph must  
833 guarantee payment of the costs and expenses incurred or to be  
834 incurred by the department for removing and destroying the  
835 plants cultivated under the issued special permit. The bond or  
836 certificate of deposit assignment or agreement must be upon a  
837 form prescribed or approved by the department and must be  
838 conditioned to secure the faithful accounting for and payment of  
839 all costs and expenses incurred by the department for removing  
840 and destroying all plants cultivated under the special permit.  
841 The bond or certificate of deposit assignment or agreement must

579-02666-12

20122094

842 include terms binding the instrument to the Commissioner of  
843 Agriculture. Such certificate of deposit shall be presented with  
844 an assignment of the permitholder's rights in the certificate in  
845 favor of the Commissioner of Agriculture on a form prescribed by  
846 the department and with a letter from the issuing institution  
847 acknowledging that the assignment has been properly recorded on  
848 the books of the issuing institution and will be honored by the  
849 issuing institution. Such assignment is irrevocable while a  
850 special permit is in effect and for an additional period of 6  
851 months after termination of the special permit if operations to  
852 remove and destroy the permitted plants are not continuing and  
853 if the department's invoice remains unpaid by the permitholder  
854 under the issued immediate final order. If operations to remove  
855 and destroy the plants are pending, the assignment remains in  
856 effect until all plants are removed and destroyed and the  
857 department's invoice has been paid. The bond or certificate of  
858 deposit may be released by the assignee of the surety company or  
859 financial institution to the permitholder, or to the  
860 permitholder's successors, assignee, or heirs, if operations to  
861 remove and destroy the permitted plants are not pending and no  
862 invoice remains unpaid at the conclusion of 6 months after the  
863 last effective date of the special permit. The department may  
864 not accept a certificate of deposit that contains any provision  
865 that would give to any person any prior rights or claim on the  
866 proceeds or principal of such certificate of deposit. The  
867 department shall determine by rule whether an annual bond or  
868 certificate of deposit will be required. The amount of such bond  
869 or certificate of deposit shall be increased, upon order of the  
870 department, at any time if the department finds such increase to

579-02666-12

20122094

871 be warranted by the cultivating operations of the permitholder.  
872 In the same manner, the amount of such bond or certificate of  
873 deposit may be decreased or removed when a decrease in the  
874 cultivating operations of the permitholder occurs or when  
875 research or practical field knowledge and observations indicate  
876 a low risk of invasiveness by the nonnative species ~~warrants~~  
877 ~~such decrease.~~ Factors that may be considered to decrease or  
878 remove the bond or certificate-of-deposit requirements include  
879 multiple years or cycles of successful large-scale contained  
880 cultivation; observation of plant, algae, or blue-green algae  
881 that do not escape from managed areas; or science-based evidence  
882 that established or proved adjusted cultivation practices  
883 provide a similar level of containment of the nonnative plant,  
884 algae, or blue-green algae. This paragraph applies to any bond  
885 or certificate of deposit, regardless of the anniversary date of  
886 its issuance, expiration, or renewal.

887 (f) In order to carry out the purposes of this subsection,  
888 the department or its agents may require from any permitholder  
889 verified statements of the cultivated acreage subject to the  
890 special permit and may review the permitholder's business or  
891 cultivation records at her or his place of business during  
892 normal business hours in order to determine the acreage  
893 cultivated. The failure of a permitholder to furnish such  
894 statement, to make such records available, or to make and  
895 deliver a new or additional bond or certificate of deposit is  
896 cause for suspension of the special permit. If the department  
897 finds such failure to be willful, the special permit may be  
898 revoked.

899 Section 10. The Department of Agriculture and Consumer

579-02666-12

20122094

900 Services shall conduct a comprehensive statewide forest  
901 inventory analysis and study, using a geographic information  
902 system, to identify where available biomass is located,  
903 determine the available biomass resources, and ensure forest  
904 sustainability within the state. The department shall submit the  
905 results of the study to the President of the Senate, the Speaker  
906 of the House of Representatives, and the Executive Office of the  
907 Governor by July 1, 2013.

908 Section 11. The Office of Energy within the Department of  
909 Agriculture and Consumer Services, in consultation with the  
910 Public Service Commission, the Florida Building Commission, and  
911 the Florida Energy Systems Consortium, shall develop a  
912 clearinghouse of information regarding cost savings associated  
913 with various energy efficiency and conservation measures. The  
914 department shall post the information on its website by July 1,  
915 2013.

916 Section 12. The Public Service Commission shall evaluate  
917 and prepare a report on the Florida Energy Efficiency and  
918 Conservation Act and determine if the act remains in the public  
919 interest. The evaluation must consider the costs to ratepayers,  
920 the incentives and disincentives associated with the provisions  
921 in the act, and if the programs create benefits without undue  
922 burden on the customer. The models and methods used to determine  
923 conservation goals must be specifically addressed in the report.  
924 The commission shall submit the report to the President of the  
925 Senate, the Speaker of the House of Representatives, and the  
926 Executive Office of the Governor by January 31, 2013.

927 Section 13. This act shall take effect July 1, 2012.