2008 LEGISLATIVE SUMMARY

Table of Contents

Tab 1  Action Required by the Public Service Commission
Tab 2  2008 Legislative Summary (Passed Bills)
Tab 3  2008 Legislative Summary (Failed Bills)
Tab 4  Budget Issues Summary
Tab 5  Information/Statistics
Tab 6  SB 2052 – Relating to Water and Wastewater Utilities
Tab 7  SB 7135 – Relating to Energy
Tab 8  SB 704 – Relating to Open Government Act/Administrative Procedures

May 9, 2008
ACTION REQUIRED BY THE PUBLIC SERVICE COMMISSION

CS/SB 2052 – Relating to Water and Wastewater Utilities

This bill raises the revenue threshold for a water or wastewater utility to be eligible for a Staff Assisted Rate Case (SARC).

HB 7135 – Relating to Energy

This is in an omnibus bill that incorporates broad energy policies, some of which affect the Florida Public Service Commission (PSC). The following provisions require direct action by the PSC:

- Requires the PSC to adopt rules for a Renewable Portfolio Standard (RPS) and present the draft rule for legislative consideration by February 1, 2009. (Section 42)
- Authorizes the PSC to establish financial incentives to encourage more conservation and demand side renewable energy systems. (Sections 38-39)
- Requires the Department of Environmental Protection (DEP), in consultation with the PSC and the Florida Energy and Climate Commission (FECC), to establish a Cap-and-Trade system. (Section 65)
- Authorizes the PSC to establish rules related to a net metering program. (Section 41)
- Requires the PSC to provide a report on utility revenue decoupling by January 1, 2009. (Section 114)
- Revises the PSC commissioner nomination process. (Sections 31-36)
- Requires each state agency to submit a telecommuting plan to the Department of Management Services (DMS) by September 30, 2009. (Sections 2 and 15)

CS/CSCS/704 – Relating to Open Government Act/Administrative Procedures

This bill does not require any immediate, direct action on the part of the FPSC. It does, however revise rulemaking procedures for state agencies.
2008 PASSED LEGISLATION SUMMARY

These bills have passed the Legislature and will be sent to the Governor for final action.

Relating to Water and Wastewater Utilities
CS/SB 2052 by Senator Baker

The bill raises the revenue threshold for a water or wastewater utility to be eligible for a Staff Assisted Rate Case (SARC) to $250,000 from $150,000, and allows the FPSC to raise the cap in the future based on the index statutorily established.

Effective Date: July 1, 2008.

Relating to Energy
HB 7135 by House Environment & Natural Resources Council and Representatives Mayfield and Kreegel

House Bill 7135, this year’s comprehensive energy legislation, includes provisions to increase energy efficiency and encourage development of renewable energy technologies. It makes sweeping energy policy changes related to global climate change and energy independence. The bill’s provisions consist of:

Section 1: Taking of Property by Electric Utilities (74.051, F.S.)
This provision requires that a hearing be conducted within 120 days for an electric utility seeking to appropriate property for certain electric facilities. It also requires that the court issue its final judgment no more than 30 days after the hearing.

Section 2: Telecommuting (110.171, F.S.)
This provision provides that each state agency must complete a telecommuting plan by September 30, 2009, that includes jobs considered appropriate for telecommuting.

Section 3: Energy Devices Based on Renewable Resources (163.04, F.S.)
This provision prohibits deed restrictions, covenants, declarations, or similar binding agreements from preventing use of certain renewable energy devices in residential units.

Sections 4-5: State Comprehensive Plan (186.007, 187.201, F.S.)
This provision adds energy and global climate change to the list of areas to be considered when developing future land use plans in the state comprehensive plan. It also encourages the reduction of greenhouse gas emissions.

Sections 6-7: Renewable Energy Source Devices (196.012, 196.175, F.S.)
This provision redefines “renewable energy source device.” It also revises the property tax exemption for renewable energy source devices.
Sections 8-9: Biofuels (206.43, 212.08, F.S.)
This provision sets definitions, reporting requirements, and tax exemption parameters for biofuels. It also designates the FECC as the lead agency to regulate these requirements.

Sections 10-13: Corporate Tax Credits (220.191-220.193, F.S.)
This provision sets rules regarding various corporate tax credits for the production or use of renewable energy.

Section 14: State Lands/Rights of Way – Sale, Transfer, and Use (253.02 and 253.034, F.S.)
This provision describes rules for the notification and permits related to transmission lines and lands. It gives DEP the authority to grant easements regarding state lands linear facilities for natural gas or electric transmission and the distribution of facilities under certain conditions. Additionally, it provides that if a utility provides evidence substantiating their consideration of environmental and economic factors, then they may be granted fee simple, titles, easements, or other interests in such lands.

Section 15: Telecommuting and Reporting (255.249, F.S.)
This provision requires each state agency to report their telecommuting plans to DMS.

Sections 16-22: State Building Standards (255.251-255.257, F.S.)
This provision outlines green building standards for state buildings and specifies requirements, Sustainable Building Ratings, deadlines, and goals.

Sections 23-25: Climate Friendly State Purchasing (286.29-287.064, F.S.)
This provision sets requirements for climate friendly state purchasing including products, vehicles, and services. It also describes financing and deferred payment parameters for state contracts and purchases.

Section 26: Biofuel Study (287.16, F.S.)
This provision requires DMS, in coordination with the Department of Transportation (DOT), to conduct an analysis of fuel additives and biofuel use. It also encourages other state agencies to analyze and report fuel usage.

Section 27: Innovation Incentive Program (288.1089, F.S.)
This provision defines alternative and renewable energy for purposes of the program. It also sets requirements for projects to be included in the program.

Section 28: High Occupancy Vehicle Lanes (316.0741, F.S.)
This provision defines high occupancy vehicles lanes, describes which vehicles are eligible to utilize those lanes, and sets vehicle requirements.

Section 29: Transmission Lines Right of Way (337.401, F.S.)
This provision allows transmission lines to be placed within the right of way of public roads within DOT’s jurisdiction, where there is no practical alternative available.
Section 30: Metropolitan Planning Organizations (MPO) (339.175, F.S.)
This provision encourages MPOs to consider strategies that integrate transportation in land use planning to provide for sustainable development and reduce greenhouse gas emissions.

Sections 31-36: PSC Nominating Process and Oversight (350.01-350.0614, F.S.)
This provision renames the Committee on Public Service Commission Oversight (CPSCO) and redefines its responsibilities. It renames the CPSCO, designating it the Committee on Public Counsel Oversight (CPCO). After the passage of the bill, the main responsibility of the committee would be to appoint the Public Counsel. The CPCO will also maintain its authority to file complaints with the Commission on Ethics for violations by current and former commissioners, commission employees, and members of the Florida Public Service Commission Nominating Council.

It also changes the makeup of the Nominating Council from its current membership of nine members to twelve. The Speaker of the House will nominate six members, three of whom must come from the House of Representatives, and one of the representatives must come from the minority party. The President of the Senate will likewise nominate six members, three of whom must be Senators, and one of the Senators must be of the minority party. By the provisions of the bill, the President of the Senate and the Speaker of the House would alternate designating the chair and vice-chair of the council. Sitting Commissioners must notify the Nominating Council of their intent to seek reappointment by June 1 of the year before their term expires.

The terms of all members of the Nominating Council sitting June 30, 2008 will expire on the effective date of the bill. The members can be reappointed and the bill provides for staggered terms beginning after that date. The Nominating Council would send names of at least three people per vacancy, rather than exactly six, to the Governor. It also sets a deadline of September 15, rather than August 1. This provision gives an incoming Governor the authority to recall an appointed, but not confirmed, candidate within the first thirty days of taking office. The proposed candidate can be replaced with another candidate from the list submitted to the Governor by the Nominating Council.

Section 37: Oversight of Municipal Utilities (366.04, F.S.)
This provision allows customers of a specific utilities to have a referendum to vote on the question “Should a separate electric utility authority be created to operate the business of the electric utility in the affected municipal electric utility?” and allows for the creation of such an authority if the “yes” votes win. The proposed charter needs to be drafted and sent to all members of the Legislature whose districts fall under its jurisdiction by July 15, 2009.

Sections 38-39: Energy Efficiency (366.81-366.82, F.S)
This provision requires the PSC to encourage demand-side renewable energy systems as part of the goal setting process. It explicitly includes thermal energy in its definition of demand-side renewable energy, which would thus include solar thermal in addition to solar photovoltaic. The renewable energy systems are limited to 2 MW or less.

The provision authorizes the PSC to spend up to $250,000 from its Regulatory Trust Fund for technical consulting assistance. It also allows the PSC to reward or punish utilities for exceeding
or failing to meet energy efficiency goals. Finally, the PSC is authorized to allow investor-owned utilities an additional return on equity of up to 50 basis points for exceeding 20 percent of their annual load-growth through energy efficiency.

Section 40: Environmental Compliance Costs (366.8255, F.S.)
This provision allows electric utilities to recover, through the Environmental Cost Recovery Clause, costs or expenses prudently incurred in-state for research or assessments of carbon capture and storage. It also allows utilities to recover costs prudently incurred for quantification, reporting, and third-party verification as required for participation in greenhouse gas emissions registries.

Section 41: Net Metering (366.91, F.S.)
This provision expands the term “biomass” to include waste, by-products or products from agricultural and orchard crops, waste and co-products from livestock and poultry operations, and waste and by-products from food processing. It requires investor-owned utilities to develop a standardized interconnection agreement and net metering program for customer-owned renewable generation on or before January 1, 2009. It also authorizes the PSC to establish requirements and adopt rules to administer the provision. Further, the provision directs municipal electric utilities and rural electric cooperatives to develop a standardized interconnection agreement and net metering program for customer-owned renewable generation. Municipal and cooperative utilities must annually report on net metering. Additionally, it requires conjunctive billing for biogas produced from anaerobic digestion of agricultural waste, including food waste. This is contingent on conjunctive billing not causing higher rates or degrading service for the general body of ratepayers.

Section 42: Renewable Portfolio Standard (366.92, F.S.)
This provision requires the PSC to develop rules for a renewable portfolio standard (RPS) and present the draft rule to the Legislature for consideration by February 1, 2009. The rules would require Legislative ratification before implementation. The RPS could include the trading of renewable energy credits (RECs) as a means of compliance and the PSC must develop a system for tracking and accounting for RECs. Investor-owned utilities would have to file an annual report to the PSC describing their compliance with the RPS and their plans for future compliance. Municipal and cooperative utilities would be required to submit an annual report to the PSC describing their renewable energy programs. The provision emphasizes that the public utilities are not relieved of their obligation to continually offer contracts for the purchase of renewable energy. It allows the PSC to include added weight for wind or solar photovoltaic power in the RPS.

In order to demonstrate the feasibility of clean energy systems, the provision allows for full cost recovery for renewable energy projects that are zero greenhouse gas emitting at the point of generation up to a total of 110 megawatts statewide.

Each municipal electric utility and rural electric cooperative shall develop standards for the use of renewable energy resources and energy conservation and efficiency measures. These standards must be submitted to the PSC before April 1, 2009.
Section 43: Nuclear Power Plants – Cost Recovery (366.93, F.S.)
This provision defines the term “cost” to include the siting, design, licensing, and construction of nuclear power plants including transmission lines or facilities which are necessary to serve the nuclear power plant. If a utility does not complete construction of the nuclear power plant, including any new, expanded, or relocated electrical transmission lines or facilities, the utility is allowed to recover all prudent preconstruction and construction costs incurred. The recouping of costs would follow the PSC’s granting a determination of need for the nuclear power plant and electrical transmission lines and facilities.

Section 44: Legislative Intent Regarding Energy Independence (377.601, F.S.)
This provision describes the Legislature's intent to encourage energy independence. It recognizes global climate change, the need to reduce greenhouse gas emissions and consider whole-life-cycle impacts of any potential energy choices.

This provision contains numerous requirements related to the establishment, membership, and role of the FECC. The FECC was created to consolidate the Florida Energy Commission (FEC) and the Florida Energy Office within the Executive Office of the Governor. It is charged with steering energy and climate change policy in the state. The Commission’s membership is nominated by the Nominating Council and is subject to Senate confirmation. The Governor appoints seven members and the Commissioner of Agriculture and the Chief Financial Officer (CFO) each appoint one member. The Governor selects the chair who may designate ex-officio, non-voting members, including the Chairman of the PSC and the Public Counsel, or their designees. The members of the FECC would also be a party in the proceedings to adopt goals and submit comments to the PSC. The Governor or the Governor’s successor may recall an unconfirmed appointee.

Section 56: Solar Energy Center (377.705, F.S.)
This provision deletes obsolete provisions related to the Solar Energy Center.

Sections 57-61: Florida Energy and Climate Protection Act (377.801-377.806, F.S.)
This provision renames Renewable Energy Technologies and Energy Efficiency Act the Florida Energy and Climate Protection Act. The act spells out the importance of diversifying the state’s energy supplies and reducing climate change. Additionally, it makes numerous conforming changes, and assigns several duties currently with the DEP to the FECC.

This provision allows the FECC to award grants to local governments for the development and implementation of programs that achieve green standards. It outlines the scope of these programs.

Sections 63-64: Technical Changes (380.23-403.031, F.S.)
This provision makes conforming changes to match corresponding statute changes in the Power Plant Siting Act (PPSA).
Section 65: Florida Climate Protection Act/Cap-and-Trade Program (403.44, F.S.)
This provision requires the DEP, in conjunction with PSC and FECC, to develop rules related to a cap-and-trade system. A cap-and-trade system combines a ceiling on greenhouse gas emissions with a credits trading system for companies that exceed or fail to meet the emission goals. The rule cannot go into effect until January 1, 2010, and needs to be ratified by the Legislature.

Sections 66-85: Power Plant Siting Act (PPSA) (403.502-403.519, F.S.)
These provisions have been defined by the DEP as its glitch fix bill that defines terms and notifications. The issues that mainly affect the PSC are the following:

It changes the definition of an applicant under the PPSA and defines those generators that must receive a need determination from the PSC. Further, it provides that steam generating facilities that do not produce electricity are not subject to the PPSA. It also specifies that the PPSA does not apply to power plants of less than 75 MW in gross capacity, all associated facilities, not just substations. Additionally, it increases the exemption from the PPSA for expansions of generation capacity for an existing exothermic reaction cogeneration electrical generating facility from 35 MW to 75 MW.

The provision further provides that for nuclear power plants, an electric utility may obtain separate licenses and permits for the construction of a facility necessary to construct a power plant without first having to obtain certification for the plant itself. It requires that an applicant’s petition to determine need must include a description and an estimate of the cost of the nuclear or integrated gasification combined cycle power plant. This includes any costs associated with new, enlarged, or relocated electrical transmission lines or facilities necessary to serve the nuclear power plant. It also provides that, after the determination of need, the right of the utility to recover the cost of transmission line construction or related facilities shall not be subject to challenge, unless the commission finds that costs were imprudently incurred.

Sections 86-93: Transmission Line Siting Act (TLSA) (403.5252-403.5365, F.S.)
This provision make numerous changes relating to the notification and public hearing provisions in the Transmission Line Siting Act (TLSA). It revises the TLSA to provide that agency completeness statements are due 30 days after the application is filed, rather than after it is distributed. It clarifies the deadline for the issuance of the determination of completeness and corrects a timing issue in requiring Preliminary Statements prior to an agency having complete information upon which to base such a Statement. It provides that agency reviews and reporting requirements are halted if the project is determined by the PSC to not be needed. It sets regulations for notices relating to alternate corridors and public meetings. It provides deadline changes in various notices to match other changes in the bill, in order to enable DEP to have the time to publish such notice under the Florida Administrative Weekly publication requirements. It further amends certain notice requirements for each proponent of an alternate corridor, and requires DEP to publish a notice of the deferment of the certification hearing due to the acceptance of an alternate corridor. It revises the TLSA to reflect that there may be more than one alternate proponent, and allows for a combined notice of alternates. This is to avoid confusing the public when a number of notices are published about different alternate proposals for the same transmission line. It also adds a notice to assure public knowledge of an
informational public meeting by a local government or regional planning council. Finally, the provision provides a benchmark to determine deadlines for reimbursement processing when withdrawal of an application has been informally made.

Section 94: Methane Capture (403.7055, F.S.)
This provision encourages counties to form multicounty regional solutions for the capture and use of methane gas from landfills and wastewater treatment facilities, under the guidance of the DEP.

Sections 95-97: Recycling (403.7032-403.706, F.S.)
This provision describe legislative intent on recycling. It requires DEP to establish a recycling program and includes requirements of that program that need to be outlined in a report submitted to the Legislature by February 1, 2010. The program has to be ratified by the Legislature before it can be implemented. DEP must also do an analysis of auxiliary containers, wrappings, and disposable plastic bags and submit a report by February 1, 2010. The bill also prohibits a local governmental agency from enacting any restrictions on such products. Finally, it asks each county to develop and implement a composting plan.

Section 98: Permits/Delegation (403.814, F.S.)
This provision specifies that the general permit authorizing the construction of electric transmission lines in wetlands applies to transmission lines certified pursuant to the PPSA and TLSA.

This provision encourages state agencies to utilize energy efficiency conservation measures and enter into energy savings contracts for water and waste water reduction. It specifies that the CFO review financing agreements and savings contracts. Additionally, both DMS and the CFO's office must review the contracts annually to insure that cost savings has occurred.

Sections 100-107: Biofuels (526.06-526.207, F.S.)
This provision establishes a biofuel standard that must be implemented by December 31, 2010. This will require all gasoline sold in the state, with some exceptions, to contain 9-10% ethanol by volume. The Department of Revenue and the Department of Agriculture and Consumer Services (DACS) are authorized to adopt rules and implement provisions. The FECC is required to conduct a study and produce a report on greenhouse gas emissions related to renewable fuels. The report is due December 31, 2010.

Sections 108-110: Florida Building Code Standards (553.73-553.909, F.S)
This provision establishes a schedule to increase the energy performance of buildings. The Florida Building Commission shall include the most current version of the International Energy Conservation Code as a foundation code. It also outlines energy efficiency standards for swimming pool equipment.

Section 111: Agency for Enterprise Information Technology (AEIT)
This provision requires AEIT to submit a report to the Legislature by July 1, 2009, that measures data center energy consumption and efficiency. Beginning December 31, 2010, and bi-annually
thereafter, the AEIT shall submit a report to the Legislature including recommendations for reducing energy consumption and improving the energy efficiency of state data centers.

This provision creates the Florida Energy Systems Consortium to promote collaboration among energy experts in the state university system to develop long term plans to promote sustainable and energy efficient programs.

Section 113: Woody Biomass Study
This provision requires DACS, in conjunction with the DEP, to conduct an economic impact analysis of the effects of incentivizing woody biomass as fuel. DACS must submit a report to the Governor and the Legislature by March 1, 2010.

Section 114: Decoupling Study
This provision requires the PSC to analyze utility revenue decoupling and provide a report and recommendations to the Governor and the Legislature by January 1, 2009.

Section 115: Motor Vehicle Emissions Standards
This provision provides that if the DEP proposes to adopt the California motor vehicle emission standards, such standards shall not be implemented until ratified by the Legislature.

Section 116: DEP Green Awards Program
This provision requires the Department of Education and the DEP to coordinate with the business community to develop a program to provide awards to recognize outstanding achievements in energy efficiency in school environments. Eligible participants include students, classes, teachers, schools, or district school boards.

Section 117: Repeal of Florida Energy Commission (377.901, F.S.)
This provision repeals the section of statute that created the FEC. FEC has been made obsolete with the creation of the FECC.

Effective Date: July 1, 2008, unless otherwise expressly provided.

Relating to Open Government Act/Administrative Procedures
CS/CS/SB 704 by Senator Bennett

This bill is called the “Open Government Act.” It is aimed at thwarting, in particular, agencies’ “unadopted rules,” defined as agency statements that meet the definition of “rule” but have not been adopted pursuant to 120.54, F.S. There are also technical clean-up provisions relating to the incorporation of material by reference in rulemaking. If there is a petition to initiate rulemaking on an agency’s unadopted rule, the agency must take one of two actions within thirty days following the petition. It can either initiate rulemaking, or it can provide notice in the Florida Administrative Weekly that it will hold a public hearing on the petition within 30 days of publication of the notice.
The bill also gives the Joint Administrative Procedures Committee (JAPC) new authority to examine a rule to determine whether the rule’s statement of estimated regulatory costs complies with 120.541, F.S. The JAPC can object to the statement of estimated regulatory costs, and the agency must respond within a prescribed timeline. If JAPC objects to the agencies’ rules or proposed rules, the agency has 45 days to take certain actions. The agency can file a notice of modifications to the rule, or withdraw it entirely.

When an agency statement is challenged as an unadopted rule, the agency may notify the Administrative Law Judge (ALJ) that the agency has published a notice of rulemaking. This notice automatically operates as a stay of the proceeding, so long as the agency is proceeding expeditiously and in good faith to adopt the statement as a rule. 120.57(1), F.S., provides that an agency or an ALJ may not use an unadopted rule as the basis for agency action that determines the substantial interests. There is an exception to this provision, if an agency demonstrates that the following three conditions are being met:

- that the statement being implemented directs it to adopt rules
- that the agency has not had time to adopt those rules because the requirement was so recently enacted
- and that the agency has initiated rulemaking and is proceeding expeditiously and in good faith to adopt the required rules

If those conditions are met, then the agency’s action may be based upon those unadopted rules, subject to de novo review by the ALJ.

The bill revises attorney’s fees so that an appellate court or ALJ may award up to $50,000, rather than $15,000, against the agency or against the person challenging the rule, proposed rule or unadopted rule.

The Department of State must publish the Florida Administrative Code on the internet.

Effective Date: July 1, 2008, unless otherwise expressly provided.
2008 FAILED LEGISLATION SUMMARY

Relating to Local Telecommunications Services
SB 784 by Senator Bennett

This bill would have repealed the provisions of 364.059, F.S., relating to procedures for seeking a stay from the FPSC of a price reduction for basic telecommunications services. With the repeal of 364.051(6), F.S., in 2007, 364.059, F.S., has no effect and is, therefore, obsolete. The bill passed the Senate, but there was no House companion.

SB 784 died in Messages.

Telecommunications Services/Universal Service
SB 1386 by Senator Bennett
HB 1323 by Representative Murzin

These bills would have extended the date for certain requirements relating to universal service and carrier-of-last resort obligations of the incumbent local exchange telecommunications companies. Specifically, the requirement for each local exchange telecommunications company to furnish basic local exchange telecommunications service within a reasonable time period to any person requesting such service within the company’s service territory was extended from 2009 to 2012 by the Senate and for six months by the House of Representatives. The bills were not heard in any of their committees of reference.

SB 1386 died in Senate Committee on Communications and Public Utilities.
HB 1323 died, was never heard in any committees of reference.
2008 BUDGET ISSUES

In a fiscally constrained budget year, initial proposals from the House and Senate recommended reductions of two vacant positions, $89,388 from information technology expenses, and a carve-out of $150,000 from the expense appropriation to be used for promotion of the Lifeline Assistance Program. The final Fiscal Year 2008-09 General Appropriations Act, however, continued the PSC’s operating budget in its entirety, with an option for the PSC to utilize up to $150,000 for promotion of the Lifeline Assistance Program under certain circumstances, and a one-time transfer of $5 million from the PSC Regulatory Trust Fund to the General Revenue Fund. Furthermore, $250,000 in new contracted services budget authority from the PSC Regulatory Trust Fund was appropriated in order to implement provisions included in this year’s comprehensive energy package.

Salaries and Benefits – 331 positions and $22,225,352

Other Personal Services – $200,588

Expenses – $4,280,019

Proviso – From these funds, up to $150,000 may be used by the PSC to promote the Lifeline Assistance Program, with an emphasis on rural areas of the state and low-income areas of the state, for the purpose of increasing public awareness and understanding of the program. If the commission procures any services to achieve this purpose, the services shall be procured through a competitive request for proposals.

Operating Capital Outlay – $387,546

Acquisition of Motor Vehicles – $72,055

Contracted Services – $479,706

Proviso – From these funds, $250,000 is appropriated contingent upon House Bill 7135 or similar legislation becoming law.

Risk Management Insurance – $87,433

Transfer to Department of Management Services – $132,588

Data Processing Services – $76,708

Total: Utilities Regulation/Consumer Assistance – $27,941,995

Unobligated cash balance amount transferred to the General Revenue Fund – $5,000,000
**INFORMATION – 2008 LEGISLATION**

**FLORIDA LEGISLATURE – REGULAR SESSION – 2008**

**LEGISLATIVE INFORMATION**

**STATISTICS REPORT AS OF 05/02/2008**

**BY BILL TYPE**

<table>
<thead>
<tr>
<th>BILL TYPE</th>
<th>FILED</th>
<th>PASSED SENATE</th>
<th>PASSED BOTH CHAMBERS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SENATE BILLS</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Concurrent Resolutions</td>
<td>2</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Resolutions (One Chamber)</td>
<td>98</td>
<td>90</td>
<td>0</td>
</tr>
<tr>
<td>General Bills</td>
<td>1335</td>
<td>222</td>
<td>145</td>
</tr>
<tr>
<td>Local Bills</td>
<td>34</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>Joint Resolutions</td>
<td>26</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Memorials</td>
<td>12</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td>1507</td>
<td>326</td>
<td>156*</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BILL TYPE</th>
<th>FILED</th>
<th>PASSED SENATE</th>
<th>PASSED BOTH CHAMBERS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>HOUSE BILLS</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Concurrent Resolutions</td>
<td>2</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Resolutions (One Chamber)</td>
<td>92</td>
<td>88</td>
<td>0</td>
</tr>
<tr>
<td>General Bills</td>
<td>821</td>
<td>224</td>
<td>124</td>
</tr>
<tr>
<td>Local Bills</td>
<td>55</td>
<td>33</td>
<td>32</td>
</tr>
<tr>
<td>Joint Resolutions</td>
<td>19</td>
<td>5</td>
<td>0</td>
</tr>
<tr>
<td>Memorials</td>
<td>7</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td>996</td>
<td>352</td>
<td>157*</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BILL TYPE</th>
<th>FILED</th>
<th>PASSED 1ST CHAMBER</th>
<th>PASSED BOTH CHAMBERS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SENATE AND HOUSE BILLS</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Concurrent Resolutions</td>
<td>4</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Resolutions (One Chamber)</td>
<td>190</td>
<td>178</td>
<td>0</td>
</tr>
<tr>
<td>General Bills</td>
<td>2156</td>
<td>446</td>
<td>269</td>
</tr>
<tr>
<td>Local Bills</td>
<td>89</td>
<td>40</td>
<td>39</td>
</tr>
<tr>
<td>Joint Resolutions</td>
<td>45</td>
<td>6</td>
<td>0</td>
</tr>
<tr>
<td>Memorials</td>
<td>19</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td>2503</td>
<td>678</td>
<td>313*</td>
</tr>
</tbody>
</table>

*One Chamber Resolutions Not Included
An act relating to water and wastewater utilities; amending s. 367.0814, F.S.; revising provisions for Florida Public Service Commission staff assistance in changing rates and charges for water and wastewater utilities; providing for periodic adjustment of the gross annual revenue level established by the commission for such purposes; requiring the commission to periodically submit a report to the Legislature; specifying report requirements; providing an effective date.

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

Section 1. Subsection (1) of section 367.0814, Florida Statutes, is amended, and subsection (10) is added to that section, to read:

367.0814 Staff assistance in changing rates and charges; interim rates.--
(1) The commission may establish rules by which a water or wastewater utility whose gross annual revenues are $250,000 or less may request and obtain staff assistance for the purpose of changing its rates and charges. A utility may request staff assistance by filing an application with the commission.

The gross annual revenue level shall be adjusted on July 1, 2013, and every 5 years thereafter, based on the most recent cumulative 5 years of the price index established by the commission pursuant to s. 367.081(4)(a).

(10) The commission shall submit to the President of the Senate and the Speaker of the House of Representatives by January 1, 2013, and every 5 years thereafter, a report of the status of proceedings conducted under this section, including the number of utilities eligible to request staff assistance, the number of proceedings conducted annually for the most recent 5-year period, the associated impact on commission resources, and any other information the commission deems appropriate.

Section 2. This act shall take effect July 1, 2008.
A bill to be entitled
An act relating to energy; amending s. 74.051, F.S.;
providing that it is the intent of the Legislature for a
court, when practicable, to conduct a hearing and issue an
order on a petition for a taking within a specified time;
amending s. 110.171, F.S.; requiring each state agency to
complete a telecommuting program by a specified date which
includes a listing of the job classifications and
positions that the state agency considers appropriate for
telecommuting; providing requirements for the
telecommuting program; requiring each state agency to post
the telecommuting program on its Internet website;
amending s. 163.04, F.S.; clarifying that condominium
declarations may not prohibit renewable energy devices;
removes three-story height restriction for installation of
solar collectors on condominiums; amending s. 186.007,
F.S.; authorizing the Executive Office of the Governor to
include in the state comprehensive plan goals, objectives,
and policies related to energy and global climate change;
amending s. 187.201, F.S.; expanding the air quality,
energy, and land use goals of the State Comprehensive Plan
to include the development of low-carbon-emitting electric
power plants, the reduction of atmospheric carbon dioxide,
the promotion of the use and development of renewable
energy resources, and provide for the siting of low carbon
emitting electric power plants, including nuclear plants;
amending ss. 196.012 and 196.175, F.S.; deleting outdated,
obsolete language; removing the expiration date of the
property tax exemption for real property on which a
renewable energy source device is installed and revising
the options for calculating the amount of the exemption;
amending s. 206.43, F.S.; requiring each terminal
supplier, importer, blender, and wholesaler to provide in
a report to the Department of Revenue the number of
gallons of blended and unblended gasoline sold; amending
s. 212.08, F.S.; revising the definition of "ethanol";
specifying eligible items as limited to one refund;
requiring a person who receives a refund to notify a
subsequent purchaser of such refund; transferring certain
duties and responsibilities from the Department of
Environmental Protection to the Florida Energy and Climate
Commission; requiring the Florida Energy and Climate
Commission to adopt, by rule, an application form for
claiming a tax exemption; amending s. 220.191, F.S.;
providing that certain qualifying projects are eligible to
transfer capital investment tax credits to other
businesses under certain circumstances; providing
limitations on the use of such transferred credits;
specifying requirements for such transfers; amending s.
220.192, F.S.; defining terms related to a tax credit;
allowing the tax credit to be transferred for a specified
period; providing procedures and requirements; requiring
the Department of Revenue to adopt rules for
implementation and administration of the program;
transferring certain duties and responsibilities from the
Department of Environmental Protection to the Florida
Energy and Climate Commission; amending s. 220.193, F.S.;
defining the terms "sale" or "sold"; defining the term
"taxpayer"; providing for retroactivity; providing that
the use of the renewable energy production credit does not
reduce the alternative minimum tax credit; amending s.
253.02, F.S.; authorizing the Board of Trustees of the
Internal Improvement Trust Fund to delegate authority to
grant easements across lands owned by the Board of
Trustees of the Internal Improvement Trust Fund to the
Secretary of Environmental Protection under certain
conditions; amending s. 255.249, F.S.; requiring state
agencies to annually provide telecommuting plans to the
Department of Management Services; amending s. 255.251,
F.S.; creating the "Florida Energy Conservation and
Sustainable Buildings Act"; amending s. 255.252, F.S.;
providing findings and legislative intent; providing that
it is the policy of the state that buildings constructed
and financed by the state be designed to meet the United
States Green Building Council (USGBC) Leadership in Energy
and Environmental Design (LEED) rating system, the Green
Building Initiative's Green Globes rating system, the
Florida Green Building Coalition standards, or a
nationally recognized green building rating system as
approved by the department; requiring each state agency
occupying space owned or managed by the department to
identify and compile a list of projects suitable for a
guaranteed energy, water, and wastewater performance
savings contract; amending s. 255.253, F.S.; defining terms relating to energy conservation for buildings;
amending s. 255.254, F.S.; prohibiting a state agency from
leasing or constructing a facility without having secured
from the department a proper evaluation of life-cycle
costs for the building; amending s. 255.255, F.S.;
requiring the department to use sustainable building
ratings for conducting a life-cycle cost analysis;
amending s. 255.257, F.S.; requiring all state agencies to
adopt an energy efficiency rating system as approved by
the department for all new buildings and renovations to
existing buildings; requiring all county, municipal,
school district, water management district, state
university, community college, and Florida state court
buildings to meet certain energy efficiency standards for
construction; providing applicability; creating a
sustainable building training certification program within
St. Petersburg College; specifying program components;
creating s. 286.29, F.S.; requiring the Department of
Management Services to develop the Florida Climate-
Friendly Preferred Products List; requiring state agencies
to consult the list and purchase products from the list if
the price is comparable; requiring state agencies to
contract for meeting and conference space with facilities
having the "Green Lodging" designation; authorizing the
Department of Environmental Protection to adopt rules;
requiring the department to establish voluntary technical
assistance programs for various businesses; requiring
state agencies, state universities, community colleges,
and local governments that purchase vehicles under a state
purchasing plan to maintain vehicles according to minimum
standards and follow certain procedures when procuring new
vehicles; requiring state agencies to use ethanol and
biodiesel-blended fuels when available; amending s.
287.063, F.S.; prohibiting the payment term for equipment
from exceeding the useful life of the equipment unless the
contract provides for the replacement or the extension of
the useful life of the equipment during the term of the
loan; amending s. 287.064, F.S.; authorizing an extension
of the master equipment financing agreement for energy
conservation equipment; requiring the guaranteed energy,
water, and wastewater savings contractor to provide for
the replacement or the extension of the useful life of the
energy conservation equipment during the term of the
contract; amending s. 287.16. F.S.; requiring the
Department of Management Services to analyze specified
fuel usage by the Department of Transportation; amending
s. 288.1089, F.S.; defining the term “alternative and
renewable energy”; revising provisions relating to
innovation incentive awards to include alternative and
renewable energy projects; specifying eligibility
requirements for such projects; requiring Enterprise
Florida, Inc., to solicit comments and recommendations
from the Florida Energy and Climate Commission in
evaluating such projects; amending s. 316.0741, F.S.;
requiring all hybrid and other low-emission and energy-
efficient vehicles that do not meet the minimum occupancy
requirement and are driven in a high-occupancy-vehicle
lane to comply with federally mandated minimum fuel
economy standards; authorizing specified vehicles to use
certain high-occupancy-vehicle lanes without payment of
tolls; amending s. 337.401, F.S.; requiring the Department
of Environmental Protection to adopt rules relating to the
placement of and access to aerial and underground electric
transmission lines having certain specifications; defining
the term “base-load generating facilities”; amending s.
339.175, F.S.; requiring each metropolitan planning
organization to develop a long-range transportation plan
and an annual project priority list that, among other
considerations, provide for sustainable growth and reduce
greenhouse gas emissions; amending s. 350.01, F.S.;
conforming the beginning of a Public Service Commission
member’s term as chair with the beginning of terms of
commissioners; correcting cross-references; amending s.
350.012, F.S.; renaming the Committee on Public Service
Commission Oversight, a standing joint committee of the
Legislature, as the “Committee on Public Counsel
Oversight”; deleting the committee’s authority to
recommend to the Governor nominees to fill vacancies on
the Public Service Commission; amending s. 350.03, F.S.;
clarifying the power of the Governor to remove and fill
commission vacancies as set forth in the State
Constitution; amending s. 350.011, F.S.; increasing the
number of members on the council; requiring the President
of the Senate and the Speaker of the House of
Representatives to appoint a chair and vice chair to the
council in alternating years; removing spending authority
for the council to advertise vacancies; requiring the
council to submit recommendations for vacancies on the
Public Service Commission to the Governor; requiring the
council to nominate a minimum of three persons for each
vacancy; revising the date that recommendations for
vacancies must be submitted; providing that a successor
Governor may remove an appointee only as provided;
providing for the council to fill a vacancy on the
commission if the Governor fails to do so; authorizing a
successor governor to recall an unconfirmed appointee
under certain circumstances; amending ss. 350.061 and
350.0614, F.S., relating to the appointment, oversight,
and compensation of the Public Counsel; conforming
provisions to changes made by the act; amending s. 366.04,
F.S.; requiring an affected municipal electric utility to
counsel customers to determine whether to require the municipal
electric utility to provide a proposed charter
transferring the operations of the utility to an electric
utility authority; amending s. 366.81, F.S.; providing
legislative intent; amending s. 366.82, F.S.; defining the
term “demand-side renewable energy”; requiring the Public
Service Commission to adopt goals for increasing the
development of demand-side renewable energy systems energy
resources; providing for cost-effectiveness tests;
requiring the Florida Energy and Climate Commission to be

a party in the proceedings to adopt goals; providing for
an appropriations; providing for cost recovery;
authorizing the commission to provide financial rewards
and penalties; authorizing the commission to allow an
investor-owned utility to earn an additional return on
equity for exceeding energy efficiency and conservation
goals; amending s. 366.8255, F.S.; redefining the term
"environmental compliance costs" to include costs or
expenses prudently incurred for scientific research and
general assessments of carbon capture and storage for
the purpose of reducing an electric utility's greenhouse
gas emissions; amending s. 366.91, F.S.; clarifying the
definition of "biomass" to include waste and byproducts;
requiring each public utility, and each municipal electric
utility and rural electric utility cooperative that sells
electricity at retail, to develop a standardized
interconnection and net metering program for customer-
owned renewable generation; authorizing net metering to be
available when a utility purchases power generated from
biogas produced by anaerobic digestion under certain
conditions; amending s. 366.92, F.S.; directing the Public
Service Commission to adopt a renewable portfolio
standard; providing definitions; providing for renewable
ergy credits; providing for cost recovery; prohibiting
the renewable portfolio standard rule from taking effect
until ratified by the Legislature; amending s. 366.93,
F.S.; revising the definitions of "cost" and
"preconstruction"; requiring the Public Service Commission
to establish rules relating to cost recovery for the
construction of new, expanded, or relocated electrical
transmission lines and facilities for a nuclear power
plant; amending s. 377.601, F.S.; revising legislative
intent with respect to the need to implement alternative
energy technologies; providing for the transfer of the
Florida Energy Commission in the Office of Legislative
Services to the Florida Energy and Climate Commission in
the Executive Office of the Governor; creating s.
377.6015, F.S.; providing for the membership, meetings,
duties, and responsibilities of the Florida Energy and
Climate Commission; providing rulemaking authority;
amending s. 377.602, F.S.; revising the definition of
"energy resources"; providing for conforming changes;
providing for the type two transfer of the state energy
program in the Department of Environmental Protection to
the Florida Energy and Climate Commission in the Executive
Office of the Governor; amending ss. 377.603, 377.604,
377.605, 377.606, 377.608, 377.701, 377.702, and 377.705,
F.S.; providing for conforming changes; amending s.
377.801, F.S.; providing a short title; amending s.
377.802, F.S.; providing the purpose of the Florida Energy
and Climate Protection Act; amending s. 377.803, F.S.;
revising definitions; clarifying the definition of
"renewable energy" to include biomass, as defined in s.
366.91, F.S.; amending s. 377.804, F.S., relating to the
Renewable Energy and Energy-Efficient Technologies Grants
Program; providing for the program to include matching
grants for technologies that increase the energy
efficiency of vehicles and commercial buildings; providing
for the solicitation of expertise of other entities;
providing application requirements; amending s. 377.806,
F.S.; conforming provisions relating to the Solar Energy
System Incentives Program, to changes made by this act;
requiring all eligible systems under the program to comply
with the Florida Building Code; revising rebate
eligibility requirements for solar thermal systems to
include the installation of certain products by roofing
contractors; creating s. 377.808, F.S.; establishing the
"Florida Green Government Grants Act"; providing for
grants to be awarded to local governments in the
development of programs that achieve green standards;
amending ss. 380.23 and 403.031, F.S.; conforming cross-
references; creating s. 403.44, F.S.; creating the Florida
Climate Protection Act; defining terms; requiring the
Department of Environmental Protection to establish the
methodologies, reporting periods, and reporting systems
that must be used when major emitters report to the
Climate Registry; authorizing the department to adopt
rules for a cap-and-trade regulatory program to reduce
greenhouse gas emissions from major emitters, providing
for the content of the rule; prohibiting the rules from
being adopted until after January 1, 2010, and from
becoming effective until ratified by the Legislature;
amending s. 403.502, F.S.; providing legislative intent;
amending s. 403.503, F.S.; defining the term "alternate
Page 9 of 237
CODING: Words crossed are deletions; words underlined are additions.
corridor* and redefining the term "corridor" for purposes

of the Florida Electrical Power Plant Siting Act; amending

s. 403.504, F.S.; requiring the Department of

Environmental Protection to determine whether a proposed

alternate corridor is acceptable; amending s. 403.506,

F.S.; exempting an electric utility from obtaining

certification under the Florida Electrical Power Plant

Siting Act before constructing facilities for a power

plant using nuclear materials as fuel; providing that a

utility may obtain separate licenses, permits, and

approvals for such construction under certain

circumstances; exempting such provisions from review under

ch. 120, F.S.; amending s. 403.5064, F.S.; requiring an

applicant to submit a statement to the department if such

applicant opts for consideration of alternate corridors;

amending s. 403.5065, F.S.; providing for conforming

changes; amending s. 403.50663, F.S.; providing for notice

of meeting to the general public; amending s. 403.50665,

F.S.; requiring an application to include a statement on

the consistency of directly associated facilities

constituting a "development"; requiring the Department of

Environmental Protection to address at the certification

hearing the issue of compliance with land use plans and

zoning ordinances for a proposed substation located in or

along an alternate corridor; amending s. 403.507, F.S.;

providing for reports to be submitted to the department no

later than 100 days after certification has been determined complete; amending s. 403.508, F.S.;

providing for land use and certification hearings;

amending s. 403.509, F.S.; requiring the Governor and

Cabinet sitting as the sitting board to certify the

corridor having the least adverse impact; authorizing the

board to deny certification or allow a party to amend its

proposal; amending s. 403.511, F.S.; providing for

conforming changes; amending s. 403.5112, F.S.; providing

for filing of notice; amending s. 403.5113, F.S.;

providing for postcertification amendments and

postcertification review; amending s. 403.5115, F.S.;

requiring the applicant proposing the alternate corridor
to publish all notices relating to the application;

requiring that such notices comply with certain

requirements; requiring that notices be published at least

45 days before the rescheduled certification hearing;

requiring applicants to make specified efforts to provide

notice to certain landowners and to file a list of such

notification with the Department of Environmental

Protection's Siting Coordination Office; amending ss.

403.516, 403.517, and 403.5175, F.S.; providing conforming

changes and cross-references; amending s. 403.518, F.S.;

authorizing the Department of Environmental Protection to

charge an application fee for an alternate corridor;

amending ss. 403.519, 403.5252, 403.526, 403.527,

403.5271, 403.5272, 403.5312, 403.5363, 403.5365, and

403.814, F.S., relating to determinations of need, public

notice requirements, and general permits; conforming

provisions to changes made by the act; creating s.
403.7055, F.S.; encouraging counties in the state to form regional solutions to the capture and reuse or sale of methane gas from landfills and wastewater treatment facilities; requiring the Department of Environmental Protection to provide guidelines and assistance; amending s. 489.145, F.S.; creating s. 403.7032, F.S.; providing legislative findings regarding recycling; providing for a long-term goal of reducing the amount of solid waste disposed of in the state by a certain percentage; requiring the Department of Environmental Protection to develop a comprehensive recycling program and submit such program to the Legislature by a specified date; requiring the Legislature's approval before implementing such program; requiring that such program be developed in coordination with other state and local entities, private businesses, and the public; requiring that the program contain certain components; creating s. 403.7033, F.S., requiring a departmental analysis of particular recyclable materials; requiring a submission of a report; amending s. 403.706, F.S., requiring every county to implement a composting plan to attain certain goals by a date certain; providing for goal modifications upon demonstrated need to the department; amending s. 489.145, F.S.; revising provisions of the Guaranteed Energy, Water, and Wastewater Performance Savings Contracting Act; requiring that each proposed contract or lease contain certain agreements concerning operational cost-saving measures; requiring the Office of the Chief Financial Officer to review contract proposals; redefining terms; requiring that certain baseline information, supporting information, and documentation be included in contracts; requiring the Office of the Chief Financial Officer to review contract proposals; providing audit requirements; requiring contract approval by the Chief Financial Officer; amending s. 526.06, F.S.; revising provisions for the sale of gasoline blended with ethanol; providing specifications for transitioning to ethanol-blended fuels; creating s. 526.201, F.S.; creating the "Florida Renewable Fuel Standard Act"; creating s. 526.202, F.S.; establishing legislative findings for the act; creating s. 526.203, F.S.; providing definitions, fuel standard, exemptions, and reporting; creating s. 526.204, F.S.; providing for waivers; providing for suspension of standard requirement during declared emergencies; creating s. 526.205, F.S.; providing for enforcement of the act; providing for extensions; creating s. 526.206, F.S.; providing for rulemaking authority by the Department of Revenue and the Department of Agriculture and Consumer Services; creating s. 526.207, F.S.; requiring studies and reports by the Florida Energy and Climate Commission; amending s. 553.73, F.S.; requiring that the Florida Building Commission select the most recent International Energy Conservation Code as a foundation code; providing for modification of the International Energy Conservation Code by the commission under certain circumstances; creating s. 553.9061, F.S.; requiring the Florida Building Commission...
to establish a schedule of increases in the energy
definitions and conduct evaluations relating to energy
efficiency; requiring the agency to submit a report;
providing report requirements; requiring the agency to
submit specified recommendations; providing for the
inclusion of specifications in certain plans and
processes; creating s. 1004.648, F.S.; establishing the
Florida Energy Systems Consortium consisting of all the
state universities; providing for membership and duties of
the consortium; providing for a director, an oversight
board, and a steering committee; requiring the consortium
to submit an annual report; requiring an economic impact
analysis on the effects of granting financial incentives
to energy producers who use woody biomass as fuel;
providing that certain vehicle emission standards are
subject to ratification by the Legislature prior to
implementation or modification by the Department of
Environmental Protection; requiring the Department of
Education and the Department of Environmental Protection
to develop an awards or recognition program for
outstanding efforts in conservation, energy and water use
reduction, environmental enhancement, and conservation-
related educational curriculum development; encouraging
the departments to seek private sector funding for the
program; repealing s. 377.901, F.S., relating to the
Florida Energy Commission; requiring the Public Service
Commission to provide a report to the Governor and the
Legislature on utility revenue decoupling; providing
effective dates.

Be It Enacted by the Legislature of the State of Florida:
Section 1. Subsection (3) of section 74.051, Florida
Statutes, is renumbered as subsection (4), and a new subsection
(3) is added to that section to read:
74.051 Hearing on order of taking.--
(3) If a defendant requests a hearing pursuant to s.
74.041(3) and the petitioner is an electric utility that is
seeking to appropriate property necessary for an electric
generation plant, an associated facility of an electric
generation plant, an electric substation, or a power line, it is
the intent of the Legislature that the court, when practicable,
conduct the hearing no more than 120 days after the petition is
filed and issue its order of taking no more than 30 days after
the conclusion of the hearing.
Section 1. Subsection (3) of section 110.171, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

110.171 State employee telecommuting program.--

(3) By September 30, 2009 October 1, 2004, each state agency shall identify and maintain a current listing of the job classifications and positions that the agency considers appropriate for telecommuting. Agencies that adopt a state employee telecommuting program must:

(a) Give equal consideration to career service and exempt positions in their selection of employees to participate in the telecommuting program.

(b) Provide that an employee's participation in a telecommuting program will not adversely affect eligibility for advancement or any other employment rights or benefits.

(c) Provide that participation by an employee in a telecommuting program is voluntary, and that the employee may elect to cease to participate in a telecommuting program at any time.

(d) Adopt provisions to allow for the termination of an employee's participation in the program if the employee's continued participation would not be in the best interests of the agency.

(e) Provide that an employee is not currently under a performance improvement plan in order to participate in the program.

(f) Ensure that employees participating in the program are subject to the same rules regarding attendance, leave, performance reviews, and separation action as are other employees.

(g) Establish the reasonable conditions that the agency plans to impose in order to ensure the appropriate use and maintenance of any equipment or items provided for use at a participating employee's home or other place apart from the employee's usual place of work, including the installation and maintenance of any telephone equipment and ongoing communications costs at the telecommuting site which is to be used for official use only.

(h) Prohibit state maintenance of an employee's personal equipment used in telecommuting, including any liability for personal equipment and costs for personal utility expenses associated with telecommuting.

(i) Describe the security controls that the agency considers appropriate.

(j) Provide that employees are covered by workers' compensation under chapter 440, when performing official duties at an alternate worksite, such as the home.

(k) Prohibit employees engaged in a telecommuting program from conducting face-to-face state business at the homesite.

(l) Require a written agreement that specifies the terms and conditions of telecommuting, which includes verification by the employee that the home office provides work space that is free of safety and fire hazards, together with an agreement which holds the state harmless against any and all claims, excluding workers' compensation claims, resulting from an
employee working in the home office, and which must be signed
and agreed to by the telecommuter and the supervisor.

(m) Provide measureable financial benefits associated with
reduced office space requirements, reductions in energy
consumption, and reductions in associated emissions of
greenhouse gases resulting from telecommuting. State agencies
operating in office space owned or managed by the department
shall consult the facilities program to ensure its consistency
with the strategic leasing plan required under s. 255.249(3)(b).

(4) The telecommuting program for each state agency and
pertinent supporting documents shall be posted on the agency's
Internet website to allow access by employees and the public.

Section 3. Subsection (2) of section 163.04, Florida Statutes, is amended to read:

163.04 Energy devices based on renewable resources.--

(2) A deed restriction, covenant, declaration, or similar
binding agreement may not No deed restrictions, covenants, or
similar binding agreements running with the land shall prohibit
or have the effect of prohibiting solar collectors,
clotheslines, or other energy devices based on renewable
resources from being installed on buildings erected on the lots
or parcels covered by the deed restriction, covenant,
declaration, or binding agreement restrictions, covenants, or
binding agreements. A property owner may not be denied
permission to install solar collectors or other energy devices
based on renewable resources by any entity granted the power or
right in any deed restriction, covenant, or similar binding

agreement to approve, forbid, control, or direct alteration of
property with respect to residential dwellings and within the
boundaries of a condominium unit, not exceeding three stories in
height. For purposes of this subsection, Such entity may
determine the specific location where solar collectors may be
installed on the roof within an orientation to the south or
within 45° east or west of due south if provided that such
determination does not impair the effective operation of the
solar collectors.

Section 4. Subsection (3) of section 186.007, Florida Statutes, is amended to read:
186.007 State comprehensive plan; preparation; revision.--

(3) In the state comprehensive plan, the Executive Office
of the Governor may include goals, objectives, and policies
related to the following program areas: economic opportunities;
agriculture; employment; public safety; education; health
concerns; social welfare concerns; housing and community
development; natural resources and environmental management;
energy; global climate change; recreational and cultural
opportunities; historic preservation; transportation; and
governmental direction and support services.

Section 5. Subsections (10), (11), and (15) of section
187.201. Florida Statutes. are amended to read:
187.201 State Comprehensive Plan adopted.--The Legislature
hereby adopts as the State Comprehensive Plan the following
specific goals and policies:

(10) AIR QUALITY.--
(a) Goal.--Florida shall comply with all national air quality standards by 1987, and by 1992 meet standards which are more stringent than 1985 state standards.

(b) Policies.--

1. Improve air quality and maintain the improved level to safeguard human health and prevent damage to the natural environment.

2. Ensure that developments and transportation systems are consistent with the maintenance of optimum air quality.

3. Reduce sulfur dioxide and nitrogen oxide emissions and mitigate their effects on the natural and human environment.

4. Encourage the use of alternative energy resources that do not degrade air quality.

5. Ensure, at a minimum, that power plant fuel conversion does not result in higher levels of air pollution.

6. Encourage the development of low-carbon-emitting electric power plants.

(11) ENERGY.--

(a) Goal.--Florida shall reduce its energy requirements through enhanced conservation and efficiency measures in all end-use sectors and shall reduce atmospheric carbon dioxide by while at the same time promoting an increased use of renewable energy resources and low-carbon-emitting electric power plants.

(b) Policies.--

1. Continue to reduce per capita energy consumption.

2. Encourage and provide incentives for consumer and producer energy conservation and establish acceptable energy performance standards for buildings and energy consuming items.

3. Improve the efficiency of traffic flow on existing roads.

4. Ensure energy efficiency in transportation design and planning and increase the availability of more efficient modes of transportation.

5. Reduce the need for new power plants by encouraging end-use efficiency, reducing peak demand, and using cost-effective alternatives.

6. Increase the efficient use of energy in design and operation of buildings, public utility systems, and other infrastructure and related equipment.

7. Promote the development and application of solar energy technologies and passive solar design techniques.

8. Provide information on energy conservation through active media campaigns.

9. Promote the use and development of renewable energy resources and low-carbon-emitting electric power plants.

10. Develop and maintain energy preparedness plans that will be both practical and effective under circumstances of disrupted energy supplies or unexpected price surges.

(15) LAND USE.--

(a) Goal.--In recognition of the importance of preserving the natural resources and enhancing the quality of life of the state, development shall be directed to those areas which have in place, or have agreements to provide, the land and water resources, fiscal abilities, and service capacity to accommodate growth in an environmentally acceptable manner.

(b) Policies.--
1. Promote state programs, investments, and development
   and redevelopment activities which encourage efficient
   development and occur in areas which will have the capacity to
   service new population and commerce.

2. Develop a system of incentives and disincentives which
   encourages a separation of urban and rural land uses while
   protecting water supplies, resource development, and fish and
   wildlife habitats.

3. Enhance the livability and character of urban areas
   through the encouragement of an attractive and functional mix of
   living, working, shopping, and recreational activities.

4. Develop a system of intergovernmental negotiation for
   siting locally unpopular public and private land uses which
   considers the area of population served, the impact on land
   development patterns or important natural resources, and the
   cost-effectiveness of service delivery.

5. Encourage and assist local governments in establishing
   comprehensive impact-review procedures to evaluate the effects
   of significant development activities in their jurisdictions.

6. Consider, in land use planning and regulation, the
   impact of land use on water quality and quantity; the
   availability of land, water, and other natural resources to meet
   demands; and the potential for flooding.

7. Provide educational programs and research to meet
   state, regional, and local planning and growth-management needs.

8. Provide for the siting of low-carbon-emitting electric
   power plants, including nuclear power plants, to meet the
   state's determined need for electric power generation.

Section 6. Subsection (14) of section 196.012, Florida
Statutes, is amended to read:

196.012 Definitions.--For the purpose of this chapter, the
following terms are defined as follows, except where the context
clearly indicates otherwise:

(14) "Renewable energy source device" or "device" means
any of the following equipment which, when installed in
connection with a dwelling unit or other structure, collects,
transmits, stores, or uses solar energy, wind energy, or energy
derived from geothermal deposits:

(a) Solar energy collectors.

(b) Storage tanks and other storage systems, excluding
swimming pools used as storage tanks.

(c) Rockbeds.

(d) Thermostats and other control devices.

(e) Heat exchange devices.

(f) Pumps and fans.

(g) Roof ponds.

(h) Freestanding thermal containers.

(i) Pipes, ducts, refrigerant handling systems, and other
equipment used to interconnect such systems; however,
conventional backup systems of any type are not included in this
definition.

(j) Windmills.

(k) Wind-driven generators.

(l) Power conditioning and storage devices that use wind
energy to generate electricity or mechanical forms of energy.
(m) Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

“Renewable energy source device” or “device” also means any heat pump with an energy efficiency ratio (EER) or a seasonal energy efficiency ratio (SEER) exceeding 8.5 and a coefficient of performance (COP), exceeding 2.6, a waste heat recovery system, or water heating system the primary heat source of which is a dedicated heat pump or the otherwise unused capacity of a heat pump, heating, ventilating, and air conditioning system, provided such device is installed in a structure substantially complete before January 1, 1995, and whether or not solar energy, wind energy, or energy derived from geothermal deposits is collected, transmitted, stored, or used by such device.

Section 7. Section 196.175, Florida Statutes, is amended to read:

196.175 Renewable energy source exemption.--

(1) Improved real property upon which a renewable energy source device is installed and operated shall be entitled to an exemption in the amount of not greater than the lesser of:

(1) The assessed value of such real property less any other exceptions applicable under this chapter;

(2) The original cost of the device, including the installation cost thereof, but excluding the cost of replacing previously existing property removed or improved in the course of such installation.

(2)(a) Eight percent of the assessed value of such property immediately following installation.

(2) The exempt amount authorized under subsection (1) shall apply in full if the device was installed and operative throughout the 12-month period preceding January 1 of the year of application for this exemption. If the device was operative for a portion of that period, the exempt amount authorized under this section shall be reduced proportionally.

(3) It shall be the responsibility of the applicant for an exemption pursuant to this section to demonstrate affirmatively to the satisfaction of the property appraiser that he or she meets the requirements for exemption under this section and that the original cost pursuant to paragraph (1)(b) and the period for which the device was operative, as indicated on the exemption application, are correct.

(4) No exemption authorized pursuant to this section shall be granted for a period of more than 10 years. No exemption shall be granted with respect to renewable energy source devices installed before January 1, 2009, or after December 31, 1999.

Section 8. Subsection (2) of section 206.43, Florida Statutes, is amended to read:

206.43 Terminal supplier, importer, exporter, blender, and wholesaler to report to department monthly; deduction.—The taxes levied and assessed as provided in this part shall be paid to the department monthly in the following manner:

(2)(a) Such report may show in detail the number of gallons so sold and delivered by the terminal supplier,
importer, exporter, blender, or wholesaler in the state, and the
724
destination as to the county in the state to which the motor
725
fuel was delivered for resale at retail or use shall be
726
specified in the report. The total taxable gallons sold shall
727
agree with the total gallons reported to the county destinations
728
for resale at retail or use. All gallons of motor fuel sold
729
shall be invoiced and shall name the county of destination for
730
resale at retail or use.
731
(b) Each terminal supplier, importer, blender, and
732
wholesaler shall also include in the report to the department
733
the number of gallons of blended and unblended gasoline, as
734
defined in s. 526.203, sold.
735
Section 9. Paragraph (ccc) of subsection (7) of section
736
212.08, Florida Statutes, is amended to read:
737
212.08 Sales, rental, use, consumption, distribution, and
738
storage tax; specified exemptions.--The sale at retail, the
739
rental, the use, the consumption, the distribution, and the
740
storage to be used or consumed in this state of the following
741
are hereby specifically exempt from the tax imposed by this
742
chapter.
743
(7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any
744
entity by this chapter do not inure to any transaction that is
745
otherwise taxable under this chapter when payment is made by a
746
representative or employee of the entity by any means,
747
including, but not limited to, cash, check, or credit card, even
748
when that representative or employee is subsequently reimbursed
749
by the entity. In addition, exemptions provided to any entity by
750
this subsection do not inure to any transaction that is
751
otherwise taxable under this chapter unless the entity has
752
obtained a sales tax exemption certificate from the department
753
or the entity obtains or provides other documentation as
754
required by the department. Eligible purchases or leases made
755
with such a certificate must be in strict compliance with this
756
subsection and departmental rules, and any person who makes an
757
exempt purchase with a certificate that is not in strict
758
compliance with this subsection and the rules is liable for and
759
shall pay the tax. The department may adopt rules to administer
760
this subsection.
761
(ccc) Equipment, machinery, and other materials for
762
renewable energy technologies.--
763
1. As used in this paragraph, the term:
764
a. "Biodiesel" means the mono-alkyl esters of long-chain
765
fatty acids derived from plant or animal matter for use as a
766
source of energy and meeting the specifications for biodiesel
767
and biodiesel blends with petroleum products as adopted by the
768
Department of Agriculture and Consumer Services. Biodiesel may
769
refer to biodiesel blends designated BXX, where XX represents
770
the volume percentage of biodiesel fuel in the blend.
771
b. "Ethanol" means an nominally anhydrous denatured
772
alcohol produced by the conversion of carbohydrates fermentation
773
of plant sugars meeting the specifications for fuel ethanol and
774
fuel ethanol blends with petroleum products as adopted by the
775
Department of Agriculture and Consumer Services. Ethanol may
776
refer to fuel ethanol blends designated BXX, where XX represents
777
the volume percentage of fuel ethanol in the blend.
c. "Hydrogen fuel cells" means equipment using hydrogen or a hydrogen-rich fuel in an electrochemical process to generate energy, electricity, or the transfer of heat.

2. The sale or use of the following in the state is exempt from the tax imposed by this chapter:
   a. Hydrogen-powered vehicles, materials incorporated into hydrogen-powered vehicles, and hydrogen-fueling stations, up to a limit of $2 million in tax each state fiscal year for all taxpayers.
   b. Commercial stationary hydrogen fuel cells, up to a limit of $1 million in tax each state fiscal year for all taxpayers.
   c. Materials used in the distribution of biodiesel (B10-B100) and ethanol (E10-E100), including fueling infrastructure, transportation, and storage, up to a limit of $1 million in tax each state fiscal year for all taxpayers. Gasoline fueling station pump retrofits for ethanol (E10-E100) distribution qualify for the exemption provided in this sub-subparagraph.

3. The Florida Energy and Climate Commission Department of Environmental Protection shall provide to the department a list of items eligible for the exemption provided in this paragraph.

4. a. The exemption provided in this paragraph shall be available to a purchaser only through a refund of previously paid taxes. An eligible item is subject to refund one time. A person who has received a refund on an eligible item shall notify the next purchaser of the item that such item is no longer eligible for a refund of paid taxes. This notification shall be provided to the Florida Energy and Climate Commission Department of Environmental Protection in writing by the person who has received the refund.

b. To be eligible to receive the exemption provided in this paragraph, a purchaser shall file an application with the Florida Energy and Climate Commission Department of Environmental Protection. The application shall be developed by the Florida Energy and Climate Commission Department of Environmental Protection, in consultation with the department, and shall require:

   (I) The name and address of the person claiming the refund.
   (II) A specific description of the purchase for which a refund is sought, including, when applicable, a serial number or other permanent identification number.
   (III) The sales invoice or other proof of purchase showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the property was purchased.
   (IV) A sworn statement that the information provided is accurate and that the requirements of this paragraph have been met.

c. Within 30 days after receipt of an application, the Florida Energy and Climate Commission Department of Environmental Protection shall review the application and shall notify the applicant of any deficiencies. Upon receipt of a completed application, the Florida Energy and Climate Commission Department of Environmental Protection shall evaluate the application for exemption and issue a written certification that
the applicant is eligible for a refund or issue a written denial
of such certification within 60 days after receipt of the
application. The Florida Energy and Climate Commission
Department of Environmental Protection shall provide the
department with a copy of each certification issued upon
approval of an application.

d. Each certified applicant shall be responsible for
forwarding a certified copy of the application and copies of all
required documentation to the department within 6 months after
certification by the Florida Energy and Climate Commission
Department of Environmental Protection.

e. The provisions of s. 220.095 do not apply to any refund
application made pursuant to this paragraph. A refund approved
pursuant to this paragraph shall be made within 30 days after
formal approval by the department.

f. The Florida Energy and Climate Commission may adopt the
form for the application for a certificate, requirements for the
content and format of information submitted to the Florida
Energy and Climate Commission in support of the application,
other procedural requirements, and criteria by which the
application will be determined by rule. The department may adopt
all other rules pursuant to ss. 120.536(1) and 120.54 to
administer this paragraph, including rules establishing
additional forms and procedures for claiming this exemption.

g. The Florida Energy and Climate Commission Department of
Environmental Protection shall be responsible for ensuring that
the total amounts of the exemptions authorized do not exceed the
limits as specified in subparagraph 2.

5. The Florida Energy and Climate Commission Department of
Environmental Protection shall determine and publish on a
regular basis the amount of sales tax funds remaining in each
fiscal year.

6. This paragraph expires July 1, 2010.

Section 10. Subsection (2) of section 220.191, Florida
Statutes, is amended to read:

220.191 Capital investment tax credit.--

(2) (a) An annual credit against the tax imposed by this
chapter shall be granted to any qualifying business in an amount
equal to 5 percent of the eligible capital costs generated by a
qualifying project, for a period not to exceed 20 years
beginning with the commencement of operations of the project.
Unless assigned as described in this subsection, the tax credit
shall be granted against only the corporate income tax liability
or the premium tax liability generated by or arising out of the
qualifying project, and the sum of all tax credits provided
pursuant to this section shall not exceed 100 percent of the
eligible capital costs of the project. In no event may any
credit granted under this section be carried forward or backward
by any qualifying business with respect to a subsequent or prior
year. The annual tax credit granted under this section shall not
exceed the following percentages of the annual corporate income
tax liability or the premium tax liability generated by or
arising out of a qualifying project:

\[ \frac{1}{4} \rightarrow \text{One hundred percent for a qualifying project which} \]
results in a cumulative capital investment of at least $100
million.
75 percent for a qualifying project which results in a cumulative capital investment of at least $50 million but less than $100 million.

50 percent for a qualifying project which results in a cumulative capital investment of at least $25 million but less than $50 million.

(b) A qualifying project which results in a cumulative capital investment of less than $25 million is not eligible for the credit.

An insurance company claiming a credit against premium tax liability under this program shall not be required to pay any additional retaliatory tax levied pursuant to s. 624.5091 as a result of claiming such credit.

Because credits under this section are available to an insurance company, s. 624.5091 does not limit such credit in any manner.

(c) A qualifying business that establishes a qualifying project that includes locating a new solar panel manufacturing facility in this state that generates a minimum of 400 jobs within 6 months after commencement of operations with an average salary of at least $50,000 may assign or transfer the annual credit, or any portion thereof, granted under this section to any other business. However, the amount of the tax credit that may be transferred in any year shall be the lesser of the qualifying business's state corporate income tax liability for that year, as limited by the percentages applicable under paragraph (a) and as calculated prior to taking any credit pursuant to this section, or the credit amount granted for that year. A business receiving the transferred or assigned credits may use the credits only in the year received, and the credits may not be carried forward or backward. To perfect the transfer, the transferor shall provide the department with a written transfer statement notifying the department of the transferor's intent to transfer the tax credits to the transferee; the date the transfer is effective; the transferee's name, address, and federal taxpayer identification number; the tax period; and the amount of tax credits to be transferred. The department shall, upon receipt of a transfer statement conforming to the requirements of this paragraph, provide the transferee with a certificate reflecting the tax credit amounts transferred. A copy of the certificate must be attached to each tax return for which the transferee seeks to apply such tax credits.

Section 11. Present subsections (1), (3), (6), and (7) of section 220.192, Florida Statutes, are amended, and a new subsection (6) is added to that section, to read:

220.192 Renewable energy technologies investment tax credit.--

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

(a) "Biodiesel" means biodiesel as defined in s. 212.08(7)(c).

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

(c) "Eligible costs" means:

1. Seventy-five percent of all capital costs, operation and maintenance costs, and research and development costs incurred between July 1, 2006, and June 30, 2010, up to a limit
of $3 million per state fiscal year for all taxpayers, in
connection with an investment in hydrogen-powered vehicles and
hydrogen vehicle fueling stations in the state, including, but
not limited to, the costs of constructing, installing, and
equipping such technologies in the state.

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

3. Seventy-five percent of all capital costs, operation
and maintenance costs, and research and development costs
incurred between July 1, 2006, and June 30, 2010, up to a limit
of $6.5 million per state fiscal year for all taxpayers, in
connection with an investment in the production, storage, and
distribution of biodiesel (B10-B100) and ethanol (E10-E100) in
the state, including the costs of constructing, installing, and
equipping such technologies in the state. Gasoline fueling
station pump retrofits for ethanol (E10-E100) distribution
qualify as an eligible cost under this subparagraph.

(f) "Taxpayer" includes a corporation as defined in
paragraph (b) or s. 220.02.

(3) CORPORATE APPLICATION PROCESS.--Any corporation
wishing to obtain tax credits available under this section must
submit to the Florida Energy and Climate Commission Department
of Environmental Protection an application for tax credit that
includes a complete description of all eligible costs for which
the corporation is seeking a credit and a description of the
total amount of credits sought. The Florida Energy and Climate
Commission Department of Environmental Protection shall make a
determination on the eligibility of the applicant for the
credits sought and certify the determination to the applicant
and the Department of Revenue. The corporation must attach the
Florida Energy and Climate Commission's Department of
Environmental Protection's certification to the tax return on
which the credit is claimed. The Florida Energy and Climate
Commission Department of Environmental Protection shall be
responsible for ensuring that the corporate income tax credits
granted in each fiscal year do not exceed the limits provided
for in this section. The Florida Energy and Climate
Commission Department of Environmental Protection is authorized to adopt
the necessary rules, guidelines, and application materials for
the application process.

(6) TRANSFERABILITY OF CREDIT.--
(a) For tax years beginning on or after January 1, 2009,
y any corporation or subsequent transferee allowed a tax credit
under this section may transfer the credit, in whole or in part,
to any taxpayer by written agreement without transferring any
ownership interest in the property generating the credit or any interest in the entity owning such property. The transferee is entitled to apply the credits against the tax with the same effect as if the transferee had incurred the eligible costs.

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

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

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

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

Section 13. It is the intent of the Legislature that the amendments made by this act to s. 220.193, Florida Statutes, are remedial in nature and apply retroactively to the effective date of the law establishing the credit.

Section 14. Subsection (2) of section 253.02, Florida Statutes, is amended to read:

(2)(a) The board of trustees shall not sell, transfer, or otherwise dispose of any lands the title to which is vested in the board of trustees except by vote of at least three of the four trustees.

(b) The authority of the board of trustees to grant easements for rights-of-way over, across, and upon uplands the title to which is vested in the board of trustees for the construction and operation of electric transmission and distribution facilities and related appurtenances is hereby confirmed. The board of trustees may delegate to the Secretary of Environmental Protection the authority to grant such easements on its behalf. All easements for rights-of-way over, across, and upon uplands the title to which is vested in the board of trustees for the construction and operation of electric transmission and distribution facilities and related appurtenances which are approved by the Secretary of Environmental Protection pursuant to the authority delegated by the board of trustees shall meet the following criteria:

1. Such easements shall not prevent the use of the state-owned uplands adjacent to the easement area for the purposes for which such lands were acquired and shall not unreasonably diminish the ecological, conservation, or recreational values of the state-owned uplands adjacent to the easement area.

2. There is no practical and prudent alternative to locating the linear facility and related appurtenances on state-
owned upland. For purposes of this subparagraph, the test of
practicality and prudence shall compare the social, economic,
and environmental effects of the alternatives.

1. Appropriate steps are taken to minimize the impacts to
state-owned uplands. Such steps may include:
   a. Siting of facilities so as to reduce impacts and
   minimize fragmentation of the overall state-owned parcel;
   b. Avoiding significant wildlife habitat, wetlands, or
   other valuable natural resources to the maximum extent
   practicable; or
   c. Avoiding interference with active land management
   practices, such as prescribed burning.

2. Except for easements granted as a part of a land
exchange to accomplish a recreational or conservation benefit or
other public purpose, in exchange for such easements, the
grantee pays an amount equal to the market value of the interest
acquired. In addition, for the initial grant of such easements
only, the grantee shall provide additional compensation by
vesting in the board of trustees fee simple title to other
available uplands that are 1.5 times the size of the easement
acquired by the grantee. The Secretary of Environmental
Protection shall approve the property to be acquired on behalf
of the board of trustees based on the geographic location in
relation to the land proposed to be under easement and a
determination that economic, ecological, and recreational value
is at least equivalent to the value of the lands under proposed
easement. Priority for replacement uplands shall be given to
parcels identified as in-holdings and additions to public lands
and lands on a Florida Forever land acquisition list. However,
if suitable replacement uplands cannot be identified, the
grantee shall provide additional compensation for the initial
grant of such easements only by paying to the department an
amount equal to 2 times the current market value of the state-
owned land or the highest and best use value at the time of
purchase, whichever is greater. When determining such use of
funds, priority shall be given to parcels identified as in-
holdings and additions to public lands and lands on a Florida
Forever land acquisition list.

(c) Where authority to approve easements for rights-of-way
over, across, and upon uplands to which is vested in
the board of trustees for the construction and operation of
electric transmission and distribution facilities and related
appurtenances has not been delegated to the Secretary of
Environmental Protection, the board of trustees shall apply the
same criteria and require the same compensation as provided
above, provided, however, the board of trustees shall have the
discretion to determine the amount of replacement lands required
within a range of from one to two times the size of the easement
acquired by the grantee, depending upon the degree to which the
proposed use of the easement will interfere with the manner in
which the lands within the proposed easement area have
historically been managed.
(3) By June 30 of each year, each state agency shall annually provide to the department all information regarding agency programs affecting the need for or use of space by that agency, reviews of lease-expiration schedules for each geographic area, active and planned full-time equivalent data, business case analyses related to consolidation plans by an agency, a telecommuting program, and current occupancy and relocation costs, inclusive of furnishings, fixtures and equipment, data, and communications.

Section 16. Section 255.251, Florida Statutes, is amended to read:


Section 17. Section 255.252, Florida Statutes, is amended to read:

255.252 Findings and intent.--

(1) Operating and maintenance expenditures associated with energy equipment and with energy consumed in state-financed and leased buildings represent a significant cost over the life of a building. Energy conserved by appropriate building design not only reduces the demand for energy but also reduces costs for building operation. For example, commercial buildings are estimated to use from 20 to 50 percent more energy than would be required if energy-conserving designs were used. The size, design, orientation, and operability of windows, the ratio of ventilating air to air heated or cooled, the level of lighting consonant with space-use requirements, the handling of occupancy loads, and the ability to zone off areas not requiring equivalent levels of heating or cooling are but a few of the considerations necessary to conserving energy.

(2) Significant efforts are needed to build energy-efficient state-owned buildings that meet environmental standards and undergo by the General Services Administration, the National Institute of Standards and Technology, and others to detail the considerations and practices for energy conservation in buildings. Most important is that energy-efficient designs provide energy savings over the life of the building structure. Conversely, energy inefficient designs cause excess and wasteful energy use and high costs over that life. With buildings lasting many decades and with energy costs escalating rapidly, it is essential that the costs of operation and maintenance for energy-using equipment and sustainable materials be included in all design proposals for state-owned state buildings.

(3) In order that such energy-efficiency and sustainable materials considerations become a function of building design, and also a model for future application in the private sector, it shall be the policy of the state that buildings constructed and financed by the state be designed and constructed to comply with the United States Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) rating system, the Green Building Initiative's Green Globes rating system, the Florida Green Building Coalition standards, or a nationally recognized, high-performance green building rating system as
(4) In addition to designing and constructing new buildings to be energy-efficient, it shall be the policy of the state to operate and maintain and renovate existing state facilities, or provide for their renovation, in a manner which will minimize energy consumption and maximize building sustainability as well as ensure that facilities leased by the state are operated so as to minimize energy use. It is further the policy of the state that the renovation of existing state facilities be in accordance with the United States Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) rating system, the Green Globes rating system, the Florida Green Building Coalition standards, or a nationally recognized, high-performance green building rating system as approved by the department. State agencies are encouraged to consider shared savings financing of such energy efficiency and conservation projects, using contracts which split the resulting savings for a specified period of time between the state agency and the private firm or cogeneration contracts which otherwise permit the state to lower its net energy costs. Such energy contracts may be funded from the operating budget.

(5) Each state agency occupying space within buildings owned or managed by the Department of Management Services must 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. The list of projects compiled by each state agency shall be submitted to the Department of Management Services by December 31, 2008, and must include all criteria used to determine suitability. The list of projects shall 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 shall prioritize all projects deemed suitable by each state agency and shall 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 shall provide the deadline for guaranteed energy, water, and wastewater performance savings contract improvements to be made to the state-owned buildings.

Section 15. Subsections (6) and (7) are added to section 255.253, Florida Statutes, to read:

(6) "Sustainable building" means a building that is healthy and comfortable for its occupants and is economical to operate while conserving resources, including energy, water, and...
raw materials and land, and minimizing the generation and use of
1282 toxic materials and waste in its design, construction,
1283 landscaping, and operation.
1284 (7) "Sustainable building rating" means a rating
1285 established by the United States Green Building Council (USGBC).
1286 Leadership in Energy and Environmental Design (LEED) rating
1287 system, the Green Building Initiative’s Green Globes rating
1288 system, the Florida Green Building Coalition standards, or a
1289 nationally recognized, high-performance green building rating
1290 system as approved by the department.
1291 Section 19. Subsection (1) of section 255.254, Florida
1292 Statutes, is amended to read:
1293 255.254 No facility constructed or leased without life-
1294 cycle costs.--
1295 (1) No state agency shall lease, construct, or have
1296 constructed, within limits prescribed in this section herein, a
1297 facility without having secured from the department an e-prep
1298 evaluation of life-cycle costs based on sustainable building
1299 ratings as computed by an architect or engineer. Furthermore,
1300 construction shall proceed only upon disclosing to the
1301 department, for the facility chosen, the life-cycle costs as
1302 determined in s. 255.255, the facility’s sustainable building
1303 rating goal, and the capitalization of the initial construction
1304 costs of the building. The life-cycle costs and the sustainable
1305 building rating goal shall be a primary considerations
1306 in the selection of a building design. Such
1307 analysis shall be required only for construction of buildings
1308 with an area of 5,000 square feet or greater. For leased
1309 buildings more than 5,000 square feet in area or
1310 greater within a given building boundary, an energy performance
1311 a life-cycle analysis consisting of a projection of the annual
1312 energy consumption costs in dollars per square foot of major
1313 energy-consuming equipment and systems based on actual expenses
1314 from the last 3 years and projected forward for the term of the
1315 proposed lease shall be performed. The--and a lease shall only
1316 be made where there is a showing that the energy life-cycle
1317 costs incurred by the state are minimal compared to available
1318 like facilities. A lease agreement for any building leased by
1319 the state from a private-sector entity shall include provisions
1320 for monthly energy use data to be collected and submitted
1321 monthly to the department by the owner of the building.
1322 Section 20. Subsection (1) of section 255.255, Florida
1323 Statutes, is amended to read:
1324 255.255 Life-cycle costs.--
1325 (1) The department shall adopt promulgate rules and
1326 procedures, including energy conservation performance guidelines
1327 based on sustainable building ratings, for conducting a life-
1328 cycle cost analysis of alternative architectural and engineering
1329 designs and alternative major items of energy-consuming
1330 equipment to be retrofitted in existing state-owned or leased
1331 facilities and for developing energy performance indices to
1332 evaluate the efficiency of energy utilization for competing
1333 designs in the construction of state-financed and leased
1334 facilities.
1335 Section 21. Section 255.257, Florida Statutes, is amended
1336 to read:
255.267 Energy management; buildings occupied by state agencies.--

(1) ENERGY CONSUMPTION AND COST DATA.--Each state agency shall collect data on energy consumption and cost. The data gathered shall be on state-owned facilities and metered state-leased facilities of 5,000 net square feet or more. These data will be used in the computation of the effectiveness of the state energy management plan and the effectiveness of the energy management program of each of the state agencies. Collected data shall be reported annually to the department in a format prescribed by the department.

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

(3) CONTENTS OF THE STATE ENERGY MANAGEMENT PLAN.--The Department of Management Services may develop a state energy management plan consisting of, but not limited to, the following elements:

(a) Data-gathering requirements;
conservation measures shall focus on programs that may reduce
energy consumption and, when established, provide a net
reduction in occupancy costs.

Section 22. (1) The Legislature declares that there is an
important state interest in promoting the construction of
energy-efficient and sustainable buildings. Government
leadership in promoting these standards is vital to demonstrate
the state’s commitment to energy conservation, saving taxpayers
money, and raising public awareness of energy-rating systems.

(2) All county, municipal, school district, water
management district, state university, community college, and
Florida state court buildings shall be constructed to meet the
United States Green Building Council (USGBC) Leadership in
Energy and Environmental Design (LEED) rating system, the Green
Building Initiative’s Green Globes rating system, the Florida
Green Building Coalition standards, or a nationally recognized,
high-performance green building rating system as approved by the
Department of Management Services. This section shall apply to
all county, municipal, school district, water management
district, state university, community college, and Florida state
court buildings the architectural plans of which are commenced
after July 1, 2008.

(3) St. Petersburg College may work with the Florida
Community College System and may consult with the University of
Florida to provide training and educational opportunities that
will ensure that green building rating system certifying agents
(accredited professionals who possess a knowledge and
understanding of green building processes, practices, and
principles) are available to work with the entities specified in
subsection (2) as they construct public buildings to meet green
building rating system standards. St. Petersburg College may
work with the construction industry to develop online continuing
education curriculum for use statewide by builders constructing
energy-efficient and sustainable public-sector buildings and
students interested in the college’s Green/Sustainability Track
in its Management and Organization Leadership area of study.
Curriculum developed may be offered by St. Petersburg College or
in cooperation with other programs at other community colleges.

Section 23. Section 286.29, Florida Statutes, is created
to read:

286.29 Climate-friendly public business.―The Legislature
recognizes the importance of leadership by state government in
the area of energy efficiency and in reducing the greenhouse gas
emissions of state government operations. The following shall
pertain to all state agencies when conducting public business:

(1) The Department of Management Services shall develop
the “Florida Climate-Friendly Preferred Products List.” In
maintaining that list, the department, in consultation with the
Department of Environmental Protection, shall continually assess
products currently available for purchase under state term
contracts to identify specific products and vendors that offer
clear energy efficiency or other environmental benefits over
competing products. When procuring products from state term
contracts, state agencies shall first consult the Florida
Climate-Friendly Preferred Products List and procure such
products if the price is comparable.
(2) Effective July 1, 2008, state agencies shall contract for meeting and conference space only with hotels or conference facilities that have received the "Green Lodging" designation from the Department of Environmental Protection for best practices in water, energy, and waste efficiency standards, unless the responsible state agency head makes a determination that no other viable alternative exists. The Department of Environmental Protection is authorized to adopt rules to implement the "Green Lodging" program.

(3) Each state agency shall ensure that all maintained vehicles meet minimum maintenance schedules shown to reduce fuel consumption, which include: ensuring appropriate tire pressures and tread depth; replacing fuel filters and emission filters at recommended intervals; using proper motor oils; and performing timely motor maintenance. Each state agency shall measure and report compliance to the Department of Management Services through the Equipment Management Information System database.

(4) When procuring new vehicles, all state agencies, state universities, community colleges, and local governments that purchase vehicles under a state purchasing plan shall first define the intended purpose for the vehicle and determine which of the following use classes for which the vehicle is being procured:

(a) State business travel, designated operator;
(b) State business travel, pool operators;
(c) Construction, agricultural, or maintenance work;
(d) Conveyance of passengers;
(e) Conveyance of building or maintenance materials and supplies;
(f) Off-road vehicle, motorcycle, or all-terrain vehicle;
(g) Emergency response; or
(h) Other.

Vehicles described in paragraphs (a) through (h), when being procured for purchase or leasing agreements, must be selected for the greatest fuel efficiency available for a given use class when fuel economy data are available. Exceptions may be made for individual vehicles in paragraph (g) when accompanied, during the procurement process, by documentation indicating that the operator or operators will exclusively be emergency first responders or have special documented need for exceptional vehicle performance characteristics. Any request for an exception must be approved by the purchasing agency head and any exceptional performance characteristics denoted as part of the procurement process prior to purchase.

(5) All state agencies shall use ethanol and biodiesel blended fuels when available. State agencies administering central fueling operations for state-owned vehicles shall procure biofuels for fleet needs to the greatest extent practicable.

Section 24. Paragraph (b) of subsection (2) and subsection (5) of section 287.063, Florida Statutes, are amended to read:

(2) Deferred-payment commodity contracts; preaudit review.--
(b) The Chief Financial Officer shall establish, by rule,

criteria for approving purchases made under deferred-payment
contracts which require the payment of interest. Criteria shall
include, but not be limited to, the following provisions:

1. No contract shall be approved in which interest exceeds
the statutory ceiling contained in this section. However, the
interest component of any master equipment financing agreement
entered into for the purpose of consolidated financing of a
deferred-payment, installment sale, or lease-purchase shall be
demed to comply with the interest rate limitation of this
section so long as the interest component of every interagency
agreement under such master equipment financing agreement
complies with the interest rate limitation of this section.

2. No deferred-payment purchase for less than $30,000
shall be approved, unless it can be satisfactorily demonstrated
and documented to the Chief Financial Officer that failure to
make such deferred-payment purchase would adversely affect an
agency in the performance of its duties. However, the Chief
Financial Officer may approve any deferred-payment purchase if
the Chief Financial Officer determines that such purchase is
economically beneficial to the state.

3. No agency shall obligate an annualized amount of
payments for deferred payment purchases in excess of current
operating capital outlay appropriations, unless specifically
authorized by law or unless it can be satisfactorily
demonstrated and documented to the Chief Financial Officer that
failure to make such deferred-payment purchase would adversely
affect an agency in the performance of its duties.

(4) No contract shall be approved which extends payment
beyond 5 years, unless it can be satisfactorily demonstrated and
documented to the Chief Financial Officer that failure to make
such deferred-payment purchase would adversely affect an agency
in the performance of its duties. The payment term may not
exceed the useful life of the equipment unless the contract
provides for the replacement or the extension of the useful life
of the equipment during the term of the loan.

(5) For purposes of this section, the annualized amount of
any such deferred payment commodity contract must be supported
from available recurring funds appropriated to the agency in an
appropriation category, other than the expense appropriation
category as defined in chapter 216, that the Chief Financial
Officer has determined is appropriate or that the Legislature
has designated for payment of the obligation incurred under this
section.

Section 25. Subsections (10) and (11) of section 287.064, Florida Statutes, are amended to read:

287.064 Consolidated financing of deferred-payment
purchases.--

(10)(a) A master equipment financing agreement may finance
costs incurred pursuant to a guaranteed energy performance
savings contract, including the cost of energy, water, or
wastewater efficiency and conservation measures, as defined
in s. 489.145, excluding may be financed pursuant to a master
equipment financing agreement, however, the costs of training,
operation, and maintenance, for a term of repayment that may not
be financed. The period of time for repayment of the funds drawn

Page 56 of 237
CODING: Words deleted are deletions; words underlined are additions.
pursuant to the master equipment financing agreement under this
subsection may exceed 5 years but may not exceed 20 years.

(b) The guaranteed energy, water, and wastewater savings
contractor shall provide for the replacement or the extension of
the useful life of the equipment during the term of the
contract.

(11) For purposes of consolidated financing of deferred
payment commodity contracts under this section by a state
agency, the annualized amount of any such contract must be
supported from available recurring funds appropriated to the
agency in an appropriation category, other than the expense
appropriation category as defined in chapter 216, which the
Chief Financial Officer has determined is appropriate or which
was appropriated during the term of the
obligation incurred under this section.

Section 26. Subsection (12) of section 287.16, Florida
Statutes, is added to read:

287.16 Powers and duties of department.--The Department of
Management Services shall have the following powers, duties, and
responsibilities:

(12) To conduct, in coordination with the Department of
Transportation, an analysis of fuel additive and biofuel use by
the Department of Transportation through its central fueling
facilities. The department shall encourage other state
government entities to analyze transportation fuel usage,
including the different types and percentages of fuels consumed,
and report such information to the department.
(a) The applicant’s federal employer identification number, unemployment account number, and state sales tax registration number. If such numbers are not available at the time of application, they must be submitted to the office in writing prior to the disbursement of any payments under this section.

(b) The location in this state at which the project is located or is to be located.

(c) A description of the type of business activity, product, or research and development undertaken by the applicant, including six-digit North American Industry Classification System codes for all activities included in the project.

(d) The applicant’s projected investment in the project.

(e) The total investment, from all sources, in the project.

(f) The number of net new full-time equivalent jobs in this state the applicant anticipates having created as of December 31 of each year in the project and the average annual wage of such jobs.

(g) The total number of full-time equivalent employees currently employed by the applicant in this state, if applicable.

(h) The anticipated commencement date of the project.

(i) A detailed explanation of why the innovation incentive is needed to induce the applicant to expand or locate in the state and whether an award would cause the applicant to locate or expand in this state.

(j) If applicable, an estimate of the proportion of the revenues resulting from the project that will be generated outside this state.

(k) To qualify for review by the office, the applicant must, at a minimum, establish the following to the satisfaction of Enterprise Florida, Inc., and the office:

(d) For an alternative and renewable energy project in this state, the project must:

1. Demonstrate a plan for significant collaboration with an institution of higher education;

2. Provide the state, at a minimum, a break-even return on investment within a 20-year period;

3. Include matching funds provided by the applicant or other available sources. This requirement may be waived if the office and the department determine that the merits of the individual project or the specific circumstances warrant such action;

4. Be located in this state;

5. Provide jobs that pay an estimated annual average wage that equals at least 130 percent of the average private-sector wage. The average wage requirement may be waived if the office and the commission determine that the merits of the individual project or the specific circumstances warrant such action; and

6. Meet one of the following criteria:

a. Result in the creation of at least 35 direct, new jobs at the business;

b. Have an activity or product that uses feedstock or other raw materials grown or produced in this state.
c. Have a cumulative investment of at least $50 million within a 5-year period.

d. Address the technical feasibility of the technology, and the extent to which the proposed project has been demonstrated to be technically feasible based on pilot project demonstrations, laboratory testing, scientific modeling, or engineering or chemical theory that supports the proposal.

e. Include innovative technology and the degree to which the project or business incorporates an innovative new technology or an innovative application of an existing technology.

f. Include production potential and the degree to which a project or business generates thermal, mechanical, or electrical energy by means of a renewable energy resource that has substantial long-term production potential. The project must, to the extent possible, quantify annual production potential in megawatts or kilowatts.

g. Include and address energy efficiency and the degree to which a project demonstrates efficient use of energy, water, and material resources.

h. Include project management and the ability of management to administer a complete business project.

(6) Enterprise Florida, Inc., shall evaluate proposals for innovation incentive awards and transmit recommendations for awards to the office. Enterprise Florida, Inc., shall solicit comments and recommendations from the Florida Energy and Climate Commission for alternative and renewable energy project proposals. Such evaluation and recommendation must include, but need not be limited to:

(a) A description of the project, its required facilities, and the associated product, service, or research and development associated with the project.

(b) The percentage of match provided for the project.

(c) The number of full-time equivalent jobs that will be created by the project, the total estimated average annual wages of such jobs, and the types of business activities and jobs likely to be stimulated by the project.

(d) The cumulative investment to be dedicated to the project within 5 years and the total investment expected in the project if more than 5 years.

(e) The projected economic and fiscal impacts on the local and state economies relative to investment.

(f) A statement of any special impacts the project is expected to stimulate in a particular business sector in the state or regional economy or in the state's universities and community colleges.

(g) A statement of any anticipated or proposed relationships with state universities.

(h) A statement of the role the incentive is expected to play in the decision of the applicant to locate or expand in this state.

(i) A recommendation and explanation of the amount of the award needed to cause the applicant to expand or locate in this state.
(j) A discussion of the efforts and commitments made by the local community in which the project is to be located to induce the applicant's location or expansion, taking into consideration local resources and abilities.

(x) A recommendation for specific performance criteria the applicant would be expected to achieve in order to receive payments from the fund and penalties or sanctions for failure to meet or maintain performance conditions.

(1) For a research and development facility project:

1. A description of the extent to which the project has the potential to serve as catalyst for an emerging or evolving cluster.

2. A description of the extent to which the project has or could have a long-term collaborative research and development relationship with one or more universities or community colleges in this state.

3. A description of the existing or projected impact of the project on established clusters or targeted industry sectors.

4. A description of the project's contribution to the diversity and resiliency of the innovation economy of this state.

5. A description of the project's impact on special needs communities, including, but not limited to, rural areas, distressed urban areas, and enterprise zones.

(6) In consultation with Enterprise Florida, Inc., the office may negotiate the proposed amount of an award for any applicant meeting the requirements of this section. In negotiating such award, the office shall consider the amount of the incentive needed to cause the applicant to locate or expand in the state in conjunction with other relevant applicant impact and cost information and analysis as described in this section. Particular emphasis shall be given to the potential for the project to stimulate additional private investment and high-quality employment opportunities in the area.

(?) Upon receipt of the evaluation and recommendation from Enterprise Florida, Inc., and from the Florida Energy and Climate Commission for alternative and renewable energy project proposals, the director shall recommend to the Governor the approval or disapproval of an award. In recommending approval of an award, the director shall include proposed performance conditions that the applicant must meet in order to obtain incentive funds and any other conditions that must be met before the receipt of any incentive funds. The Governor shall consult with the President of the Senate and the Speaker of the House of Representatives before giving approval for an award. Upon approval of an award the Executive Office of the Governor shall release the funds pursuant to the legislative consultation and review requirements set forth in s. 216.177.

(8) Upon approval by the Governor and release of the funds as set forth in subsection (7), the director shall issue a letter certifying the applicant as qualified for an award. The office and the applicant shall enter into an agreement that sets forth the conditions for payment of incentives. The agreement must include the total amount of funds awarded; the performance conditions that must be met to obtain the award or portions of
the award, including, but not limited to, net new employment in
the state, average wage, and total cumulative investment;
demonstration of a baseline of current service and a measure of
enhanced capability; the methodology for validating performance;
the schedule of payments; and sanctions for failure to meet
performance conditions, including any clawback provisions.
(9) Enterprise Florida, Inc., shall assist the office in
validating the performance of an innovation business or research
and development facility that has received an award. At the
conclusion of the innovation incentive agreement, or its
erlier termination, Enterprise Florida, Inc., shall, within 90
days, report the results of the innovation incentive award to
the Governor, the President of the Senate, and the Speaker of
the House of Representatives.
(10) Enterprise Florida, Inc., shall develop business
ethics standards based on appropriate best industry practices
which shall be applicable to all award recipients. The standards
shall address ethical duties of business enterprises, fiduciary
responsibilities of management, and compliance with the laws of
this state. Enterprise Florida, Inc., may collaborate with the
State University System in reviewing and evaluating appropriate
business ethics standards. Such standards shall be provided to
the Governor, the President of the Senate, and the Speaker of
the House of Representatives by December 31, 2006. An award
agreement entered into on or after December 31, 2006, shall
require a recipient to comply with the business ethics standards
developed pursuant to this section.

Section 28. Section 316.0741, Florida Statutes, is amended
to read:
316.0741 High-occupancy vehicle lanes.
(1) As used in this section, the term:
(a) "High-occupancy vehicle lane" or "HOV lane" means a lane of a public roadway designated for
use by vehicles in which there is more than one occupant unless
otherwise authorized by federal law.
(b) "Hybrid vehicle" means a motor vehicle that:
1. Draws propulsion energy from an onboard source of
stored energy comprised of both an internal combustion or heat
engine using combustible fuel and a rechargeable energy-storage
system; and
2. In the case of a passenger automobile or light truck,
has received a certificate of conformity under the Clean Air
Act, 42 U.S.C. ss. 7401 et seq., and meets or exceeds the
equivalent qualifying California standards for a low-emission
vehicle.
(2) The number of persons who must be in a vehicle to
qualify for legal use of the HOV lane and the hours during
which the lane will serve as an HOV lane, if it is not designated as
such on a full-time basis, must also be indicated on a traffic
control device.
(3) Except as provided in subsection (4), a vehicle may
not be driven in an HOV lane if the vehicle is occupied by fewer
than the number of occupants indicated by a traffic control

Page 65 of 237
CODING: Words deleted are deletions; words underlined are additions.
device. A driver who violates this section shall be cited for a moving violation, punishable as provided in chapter 318.

(4)(a) Notwithstanding any other provision of this section, an inherently low-emission vehicle (ILEV) that is certified and labeled in accordance with federal regulations may be driven in an HOV lane at any time, regardless of its occupancy. In addition, upon the state's receipt of written notice from the proper federal regulatory agency authorizing such use, a vehicle defined as a hybrid vehicle under this section may be driven in an HOV lane at any time, regardless of its occupancy.

(b) All eligible hybrid and other low-emission and energy-efficient vehicles driven in an HOV lane must comply with the minimum fuel economy standards in 23 U.S.C. s. 166(f)(3)(B).

(c) Upon its effective date, the eligibility of hybrid and other low-emission and energy-efficient vehicles for operation in an HOV lane regardless of occupancy shall be determined in accordance with the applicable final rule issued by the United States Environmental Protection Agency pursuant to 23 U.S.C. s. 166(e).

(5) The department shall issue a decal and registration certificate, to be renewed annually, reflecting the HOV lane designation on such vehicles meeting the criteria in subsection (4) authorizing driving in an HOV lane at any time such use islegal. The department may charge a fee for a decal, not to exceed the costs of designing, producing, and distributing each decal, or $5, whichever is less. The proceeds from sale of the decals shall be deposited in the Highway Safety Operating Trust Fund. The department may, for reasons of operation and management of HOV facilities, limit or discontinue issuance of decals for the use of HOV facilities by hybrid and low-emission and energy-efficient vehicles regardless of occupancy if it has been determined by the Department of Transportation that the facilities are degraded as defined by 23 U.S.C. s. 166(d)(2).

(6) Vehicles having decals by virtue of compliance with the minimum fuel economy standards in 23 U.S.C. s. 166(f)(3)(B) and that are registered for use in high-occupancy-vehicle toll lanes or express lanes in accordance with Department of Transportation rule shall be allowed to use any HOV lane redesignated as a high-occupancy-vehicle toll lane without requiring payment of the toll.

(6)(a) As used in this section, the term "hybrid vehicle" means a motor vehicle that draws propulsion energy from onboard sources of stored energy which are both:

1. An internal combustion or heat engine using combustible fuel;
2. A rechargeable energy storage system; and
3. Has received a certificate of conformity under the Clean Air Act, 42 U.S.C. ss. 7401 et seq., and meets or exceeds the equivalent qualifying California standards for a low-emission vehicle.

(7) The department may adopt rules necessary to administer this section.
Section 29. Subsection (1) of section 337.401, Florida Statutes, is amended to read:

337.401 Use of right-of-way for utilities subject to regulation; permit; fees.--

(1) The department and local governmental entities, referred to in ss. 337.401-337.404 as the "authority," that have jurisdiction and control of public roads or publicly owned rail corridors are authorized to prescribe and enforce reasonable rules or regulations with reference to the placing and maintaining along, across, or on any road or publicly owned rail corridors under their respective jurisdictions any electric transmission, telephone, telegraph, or other communications services lines; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures hereinafter referred to in this section as the "utility." For aerial and underground electric utility transmission lines designed to operate at 69 or more kilovolts that are needed to accommodate the additional electrical transfer capacity on the transmission grid resulting from new base-load generating facilities, where there is no other practicable alternative available for placement of the electric utility transmission lines on the department's rights-of-way, the department's rules shall provide for placement of the transmission lines adjacent to and within the right-of-way of any department-controlled public roads, including longitudinally within limited access facilities to the greatest extent allowed by federal law, if compliance with the standards established by such rules is achieved. Such rules may include, but need not be limited to, that the use of the right-of-way is reasonable based upon a consideration of economic and environmental factors, including, without limitation, other practicable alternative alignments, utility corridors and easements, impacts on adjacent property owners, and minimum clear zones and other safety standards, and further provide that placement of the electric utility transmission lines within the department's right-of-way does not interfere with operational requirements of the transportation facility or planned or potential future expansion of such transportation facility. If the department approves longitudinal placement of electric utility transmission lines in limited access facilities, compensation for the use of the right-of-way is required. Such consideration or compensation paid by the electric utility in connection with the department's issuance of a permit does not create any property right in the department's property regardless of the amount of consideration paid or the improvements constructed on the property by the utility. Upon notice by the department that the property is needed for expansion or improvement of the transportation facility, the electric utility transmission line will relocate from the facility at the electric utility's sole expense. The electric utility shall pay to the department reasonable damages resulting from the utility's failure or refusal to timely relocate its transmission lines. The rules to be adopted by the department may also address the compensation methodology and relocation. As used in this subsection, the term "base-load generating facilities" means electric power plants that are certified under...
part II of chapter 403. The department may enter into a permit-
delegation agreement with a governmental entity if issuance of a
permit is based on requirements that the department finds will
ensure the safety and integrity of facilities of the Department
of Transportation; however, the permit-delegation agreement does
not apply to facilities of electric utilities as defined in s.
366.02(2).

Section 30. Subsections (1) and (7) of section 339.175,
Florida Statutes, are amended to read:

339.175 Metropolitan planning organization.--
(1) PURPOSE.--It is the intent of the Legislature to
encourage and promote the safe and efficient management,
operation, and development of surface transportation systems
that will serve the mobility needs of people and freight and
foster economic growth and development within and through
urbanized areas of this state while minimizing transportation-
related fuel consumption, end air pollution, and greenhouse gas
emissions through metropolitan transportation planning processes
identified in this section. To accomplish these objectives,
metropolitan planning organizations, referred to in this section
as M.P.O.'s, shall develop, in cooperation with the state and
public transit operators, transportation plans and programs for
metropolitan areas. The plans and programs for each metropolitan
area must provide for the development and integrated management
and operation of transportation systems and facilities,
including pedestrian walkways and bicycle transportation
facilities that will function as an intermodal transportation
system for the metropolitan area, based upon the prevailing
principles provided in s. 334.046(1). The process for developing
such plans and programs shall provide for consideration of all
modes of transportation and shall be continuing, cooperative,
and comprehensive, to the degree appropriate, based on the
complexity of the transportation problems to be addressed. To
ensure that the process is integrated with the statewide
planning process, M.P.O.'s shall develop plans and programs that
identify transportation facilities that should function as an
integrated metropolitan transportation system, giving emphasis
to facilities that serve important national, state, and regional
transportation functions. For the purposes of this section,
those facilities include the facilities on the Strategic
Intermodal System designated under s. 339.63 and facilities for
which projects have been identified pursuant to s. 339.28194(4).

(7) LONG-RANGE TRANSPORTATION PLAN.--Each M.P.O. must
develop a long-range transportation plan that addresses at least
a 20-year planning horizon. The plan must include both long-
range and short-range strategies and must comply with all other
state and federal requirements. The prevailing principles to be
considered in the long-range transportation plan are: preserving
the existing transportation infrastructure; enhancing Florida's
economic competitiveness; and improving travel choices to ensure
mobility. The long-range transportation plan must be consistent,
to the maximum extent feasible, with future land use elements
and the goals, objectives, and policies of the approved local
government comprehensive plans of the units of local government
located within the jurisdiction of the M.P.O. Each M.P.O. is
couraged to consider strategies that integrate transportation
Page 71 of 237
Page 72 of 237
and land use planning to provide for sustainable development and reduce greenhouse gas emissions. The approved long-range transportation plan must be considered by local governments in the development of the transportation elements in local government comprehensive plans and any amendments thereto. The long-range transportation plan must, at a minimum:

(a) Identify transportation facilities, including, but not limited to, major roadways, airports, seaports, spaceports, commuter rail systems, transit systems, and intermodal or multimodal terminals that will function as an integrated metropolitan transportation system. The long-range transportation plan must give emphasis to those transportation facilities that serve national, statewide, or regional functions, and must consider the goals and objectives identified in the Florida Transportation Plan as provided in § 339.155. If a project is located within the boundaries of more than one M.P.O., the M.P.O.'s must coordinate plans regarding the project in the long-range transportation plan.

(b) Include a financial plan that demonstrates how the plan can be implemented, indicating resources from public and private sources which are reasonably expected to be available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the long-range transportation plan, the M.P.O. and the department shall cooperatively develop estimates of funds that will be available to support the plan implementation. Innovative financing techniques may be used to fund needed projects and programs. Such techniques may include the assessment of tolls, the use of value capture financing, or the use of value pricing.

(c) Assess capital investment and other measures necessary to:

1. Ensure the preservation of the existing metropolitan transportation system including requirements for the operation, resurfacing, restoration, and rehabilitation of major roadways and requirements for the operation, maintenance, modernization, and rehabilitation of public transportation facilities; and

2. Make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods.

(d) Indicate, as appropriate, proposed transportation enhancement activities, including, but not limited to, pedestrian and bicycle facilities, scenic easements, landscaping, historic preservation, mitigation of water pollution due to highway runoff, and control of outdoor advertising.

(e) In addition to the requirements of paragraphs (a)-(d), in metropolitan areas that are classified as nonattainment areas for ozone or carbon monoxide, the M.P.O. must coordinate the development of the long-range transportation plan with the State Implementation Plan developed pursuant to the requirements of the federal Clean Air Act.
In the development of its long-range transportation plan, each M.P.O. must provide the public, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan. The long-range transportation plan must be approved by the M.P.O.

Section 31. Subsections (2), (3), and (4) of section 350.01, Florida Statutes, are amended to read:

350.01 Florida Public Service Commission; terms of commissioners; vacancies; election and duties of chair; quorum; proceedings.--

(2) (a) Each commissioner serving on July 1, 1978, shall be permitted to remain in office until the completion of his or her current term. Upon the expiration of the term, a successor shall be appointed in the manner prescribed by s. 350.031(4), (6), and (7) for a 4-year term, except that the terms of the initial members appointed under this act shall be as follows:

1. The vacancy created by the present term ending in January, 1981, shall be filled by appointment for a 4-year term and for 4-year terms thereafter, and

2. The vacancies created by the two present terms ending in January, 1979, shall be filled by appointment for a 3-year term and for 4-year terms thereafter.

(b) Two additional commissioners shall be appointed in the manner prescribed by s. 350.031(4), (6), and (7) for 4-year terms beginning the first Tuesday after the first Monday in January, 1979, and successors shall be appointed for 4-year terms thereafter with each term beginning on January 2 of the year the term commences and ending 4 years later on January 1.

(c) Vacancies on the commission shall be filled for the unexpired portion of the term in the same manner as original appointments to the commission.

(3) Any person serving on the commission who seeks to be appointed or reappointed shall file with the nominating council no later than June 1 prior to the year in which his or her term expires at least 210 days before the expiration of his or her term a statement that he or she desires to serve an additional term.

(4) One member of the commission shall be elected by majority vote to serve as chair for a term of 2 years, beginning on January 2 of the first year of the term with the first Tuesday after the first Monday in January. A member may not serve two consecutive terms as chair.

Section 32. Section 350.012, Florida Statutes, is amended to read:

350.012 Committee on Public Counsel Service Commission Oversight; creation; membership; powers and duties.--

(1) There is created a standing Joint committee of the Legislature, designated the Committee on Public Counsel Service Commission Oversight, and composed of 12 members appointed as follows: six members of the Senate appointed by the President of the Senate, two of whom must be members of the minority party; and six members of the House of Representatives appointed by the President of the House of Representatives.
Speaker of the House of Representatives, two of whom must be
members of the minority party. The terms of members shall be for
2 years and shall run from the organization of one Legislature
to the organization of the next Legislature. The President shall
appoint the chair of the committee in even-numbered years and
the vice chair in odd-numbered years, and the Speaker of the
House of Representatives shall appoint the chair of the
committee in odd-numbered years and the vice chair in even-
numbered years, from among the committee membership. Vacancies
shall be filled in the same manner as the original appointment.
Members shall serve without additional compensation, but shall
be reimbursed for expenses.

(2) The committee shall:
(a) Recommend to the Governor nominees to fill a vacancy
on the Public Service Commission, as provided by general law.
and
(b) appoint a Public Counsel as provided by general law.
(3) The committee is authorized to file a complaint with
the Commission on Ethics alleging a violation of this chapter by
a commissioner, former commissioner, former commission employee,
or member of the Public Service Commission Nominating Council.
(4) The committee will not have a permanent staff, but the
President of the Senate and the Speaker of the House of
Representatives shall select staff members from among existing
legislative staff, when and as needed.

Section 33. Section 350.03, Florida Statutes, is amended
to read:

CODING: Words [deleted] are deletions; words [underlined] are additions.
term if reappointed by the Speaker of the House of
Representatives or the President of the Senate. To establish
staggered terms, appointments of members shall be made for
initial terms to begin on July 1, 2008, with each appointing
officer to appoint three legislator members, one of whom shall
be a member of the minority party, to terms through the
remainder of the 2-year elected terms of House members; one
nonlegislator member to a 6-month term, one nonlegislator member
to an 18-month term, and one nonlegislator member to a 42-month
term. Thereafter, the terms of the nonlegislator members of the
Public Service Commission Nominating Council shall begin on
January 2 of the year the term commences and end 4 years later
on January 1.

(c) The President of the Senate shall appoint the chair of
the council in even-numbered years and the vice chair in odd-
numbered years, and the Speaker of the House of Representatives
shall appoint the chair of the council in odd-numbered years and
the vice chair in even-numbered years, from among the council
membership.

(d) Vacancies on the council shall be filled for the
unexpired portion of the term in the same manner as original
appointments to the council. A member may not be reappointed to
the council, except for a member of the House of Representatives
or the Senate who may be appointed to two 2-year terms, members
who are reappointed pursuant to paragraph (b), or a person who
is appointed to fill the remaining portion of an unexpired term.

(5) A person may not be nominated to the Governor for
appointment to the Committee on Public Service Commission

Oversight until the council has determined that the person is
competent and knowledgeable in one or more fields, which shall
include, but not be limited to: public affairs, law, economics,
accounting, engineering, finance, natural resource conservation,
energy, or another field substantially related to the duties and
functions of the commission. The commission shall fairly
represent the above-stated fields. Recommendations of the
council shall be nonpartisan.

(6) It is the responsibility of the council to nominate to
the Governor no fewer than three Committee on Public Service
Commission Oversight six persons for each vacancy occurring on
the Public Service Commission. The council shall submit the
recommendations to the Governor by September 15 committee by
August 1 of those years in which the terms are to begin the
following January, or within 60 days after a vacancy occurs for
any reason other than the expiration of the term.

(7) The Committee on Public Service Commission Oversight
shall select from the list of nominees provided by the
nominating council three nominees for recommendation to the
Governor for appointment to the commission. The recommendations
must be provided to the Governor within 45 days after receipt of
the list of nominees. The Governor shall fill a vacancy
occurring on the Public Service Commission by appointment of one
of the applicants nominated by the council committee only after
a background investigation of such applicant has been conducted
by the Florida Department of Law Enforcement. If the Governor
has not made an appointment within 30 consecutive calendar days
after the receipt of the recommendation, the council committee,
by majority vote, shall appoint, within 30 days after the 
expiration of the Governor's time to make an appointment, one 
person from the applicants previously nominated to the Governor 
to fill the vacancy.

(8) Each appointment to the Public Service Commission 
shall be subject to confirmation by the Senate during the next 
regular session after the vacancy occurs. If the Senate refuses 
to confirm or fails to consider rejects the Governor's 
appointment, the council shall initiate, in accordance with this 
section, the nominating process within 30 days.

(9) When the Governor makes an appointment, to fill a 
vacancy occurring due to expiration of the term, and that 
appointment has not been confirmed by the Senate before the 
appointing Governor's term ends, a successor Governor may, 
within 30 days after taking office, recall the appointment and, 
prior to the first day of the next regular session, make a 
replacement appointment from the list provided to the previous 
Governor by the council. Such an appointment is subject to 
confirmation by the Senate at the next regular session following 
the creation of the vacancy to which the appointments are being 
made. If the replacement appointment is not timely made, or if 
the appointment is not confirmed by the Senate for any reason, 
the council, by majority vote, shall appoint, within 30 days 
after the Legislature adjourns sine die, one person from the 
appllicants previously nominated to the Governor to fill the 
vacancy, and this appointee is subject to confirmation by the 
Senate during the next regular session following the 
appointment.
366.04 Jurisdiction of commission.--
(7)(a) As used in this subsection, the term "affected municipal electric utility" means a municipality that operates an electric utility that:
1. Serves two cities in the same county;
2. Is located in a noncharter county;
3. Has between 30,000 and 35,000 retail electric customers as of September 30, 2007; and
4. Does not have a service territory that extends beyond its home county as of September 30, 2007.
(b) Each affected municipal electric utility shall conduct a referendum election of all of its retail electric customers, with each named retail electric customer having one vote, concurrent with the next regularly scheduled general election following the effective date of this act.
(c) The ballot for the referendum election required under paragraph (b) shall contain the following question: "Should a separate electric utility authority be created to operate the business of the electric utility in the affected municipal electric utility?" The statement shall be followed by the word "yes" and the word "no."
(d) The provisions of the Election Code relating to notice and conduct of the election shall be followed to the extent practicable. Costs of the referendum election shall be borne by the affected municipal electric utility.
(e) If a majority of the affected municipal electric utility's retail electric customers vote in favor of creating a separate electric utility authority, the affected municipal electric utility shall, no later than January 15, 2009, provide to each member of the Legislature whose district includes any portion of the electric service territory of the affected municipal electric utility a proposed charter that transfers operations of its electric, water, and sewer utility businesses to a duly-created authority, the governing board of which shall proportionally represent the number of county and city ratepayers of the electric utility.

Section 38. Section 366.81, Florida Statutes, is amended to read:

366.81 Legislative findings and intent.--The Legislature finds and declares that it is critical to utilize the most efficient and cost-effective demand-side renewable energy systems and conservation systems in order to protect the health, prosperity, and general welfare of the state and its citizens. Reduction in, and control of, the growth rates of electric consumption and of weather-sensitive peak demand are of particular importance. The Legislature further finds that the Florida Public Service Commission is the appropriate agency to adopt goals and approve plans related to the promotion of demand-side renewable energy systems and the conservation of electric energy and natural gas usage. The Legislature directs the commission to develop and adopt overall goals and authorizes the commission to require each utility to develop plans and implement programs for increasing energy efficiency and conservation and demand-side renewable energy systems within its service area, subject to the approval of the commission. Since solutions to our energy problems are complex, the Legislature...
intends that the use of solar energy, renewable energy sources,
highly efficient systems, cogeneration, and load-control systems
be encouraged. Accordingly, in exercising its jurisdiction, the
commission shall not approve any rate or rate structure which
discriminates against any class of customers on account of the
use of such facilities, systems, or devices. This expression of
legislative intent shall not be construed to preclude
experimental rates, rate structures, or programs. The
Legislature further finds and declares that ss. 366.80-366.85
and 403.519 are to be liberally construed in order to meet the
complex problems of reducing and controlling the growth rates of
electric consumption and reducing the growth rates of weather-
sensitive peak demand; increasing the overall efficiency and
cost-effectiveness of electricity and natural gas production and
use; encouraging further development of demand-side renewable
energy systems e.g., generation facilities, and conserving expensive
resources, particularly petroleum fuels.

Section 39. Section 366.82, Florida Statutes, is amended
to read:

366.82 Definition; goals; plans; programs; annual reports;
energy audits.--

(1) For the purposes of ss. 366.80-366.85 and 403.519,
"Utility" means any person or entity of whatever form
which provides electricity or natural gas at retail to the
public, specifically including municipalities or
instrumentalities thereof and cooperatives organized under the
Rural Electric Cooperative Law and specifically excluding any
municipality or instrumentality thereof, any cooperative

Page 85 of 237
CODING: Words stricken are deletions; words underlined are additions.

organized under the Rural Electric Cooperative Law, or any other
person or entity providing natural gas at retail to the public
whose annual sales volume is less than 100 million therms or any
municipality or instrumentality thereof and any cooperative
organized under the Rural Electric Cooperative Law providing
electricity at retail to the public whose annual sales as of
July 1, 1993, to end-use customers is less than 2,000 gigawatt
hours.

(b) "Demand-side renewable energy" means a system located
on a customer's premises generating thermal or electric energy
using Florida renewable energy resources and primarily intended
to offset all or part of the customer's electricity requirements
provided such system does not exceed 2 megawatts.

(2) The commission shall adopt appropriate goals for
increasing the efficiency of energy consumption and increasing
the development of demand-side renewable energy systems
e.g., generation, specifically including goals designed to increase
the conservation of expensive resources, such as petroleum
fuels, to reduce and control the growth rates of electric
consumption, and to reduce the growth rates of weather-sensitive
peak demand, and to encourage development of demand-side
renewable energy resources. The commission may allow efficiency
investments across generation, transmission, and distribution as
well as efficiencies within the user base. The Executive Office
of the Governor shall be a party in the proceedings to adopt
goals. The commission may change the goals for reasonable cause.
The time period to review the goals, however, shall not exceed 5
years. After the programs and plans to meet those goals are

Page 86 of 237
CODING: Words stricken are deletions; words underlined are additions.
completed, the commission shall determine what further goals, programs, or plans are warranted and, if so, shall adopt them.

(3) In developing the goals, the commission shall evaluate the full technical potential of all available demand-side and supply-side conservation and efficiency measures, including demand-side renewable energy systems. In establishing the goals, the commission shall take into consideration:

(a) The costs and benefits to customers participating in the measure.

(b) The costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant contributions.

(c) The need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems.

(d) The costs imposed by state and federal regulations on the emission of greenhouse gases.

(4) Subject to specific appropriation, the commission may expend up to $250,000 from the Florida Public Service Regulatory Trust Fund to obtain needed technical consulting assistance.

(5) The Florida Energy and Climate Commission shall be a party in the proceedings to adopt goals and shall file with the commission comments on the proposed goals, including, but not limited to:

(a) An evaluation of utility load forecasts, including an assessment of alternative supply-side and demand-side resource options.

(b) An analysis of various policy options that can be implemented to achieve a least-cost strategy, including nonutility programs targeted at reducing and controlling the per capita use of electricity in the state.

(c) An analysis of the impact of state and local building codes and appliance efficiency standards on the need for utility-sponsored conservation and energy efficiency measures and programs.

(6) The commission may change the goals for reasonable cause. The time period to review the goals, however, shall not exceed 5 years. After the programs and plans to meet those goals are completed, the commission shall determine what further goals, programs, or plans are warranted and adopt them.

(7) Following adoption of goals pursuant to subsections (2) and (3), the commission shall require each utility to develop plans and programs to meet the overall goals within its service area. The commission may require modifications or additions to a utility's plans and programs at any time it is in the public interest consistent with this act. In approving plans and programs for cost recovery, the commission shall have the flexibility to modify or deny plans or programs that would have an undue impact on the costs passed on to customers. If any plan or program includes loans, collection of loans, or similar banking functions by a utility and the plan is approved by the commission, the utility shall perform such functions, notwithstanding any other provision of the law. The commission may pledge up to 65 million of the Florida Public Service-Regulatory Trust Fund to guarantee such loans. However,
no utility shall be required to loan its funds for the purpose
of purchasing or otherwise acquiring conservation measures or
devices, but nothing herein shall prohibit or impair the
administration or implementation of a utility plan as submitted
by a utility and approved by the commission under this
subsection. If the commission disapproves a plan, it shall
specify the reasons for disapproval, and the utility whose plan
is disapproved shall resubmit its modified plan within 30 days.
Prior approval by the commission shall be required to modify or
discontinue a plan, or part thereof, which has been approved. If
any utility has not implemented its programs and is not
substantially in compliance with the provisions of its approved
plan at any time, the commission shall adopt programs required
for that utility to achieve the overall goals. Utility programs
may include variations in rate design, load control,
cogeneration, residential energy conservation subsidy, or any
other measure within the jurisdiction of the commission which
the commission finds likely to be effective; this provision
shall not be construed to preclude these measures in any plan or
program.

(8) The commission may authorize financial rewards for
those utilities over which it has rate-setting authority that
exceed their goals and may authorize financial penalties for
those utilities that fail to meet their goals, including, but
not limited to, the sharing of generation, transmission, and
distribution cost savings associated with conservation, energy
efficiency, and demand-side renewable energy systems additions.
implementation of its plan for the immediately following 6-month period. Reasonable and prudent unreimbursed costs projected to be incurred, or any portion of such costs, may be added to the rates which would otherwise be charged by a utility upon approval by the commission, provided that the commission shall not allow the recovery of the cost of any company image-enhancing advertising or of any advertising not directly related to an approved conservation program. Following each 6-month period, each utility shall report the actual results for that period to the commission, and the difference, if any, between actual and projected results shall be taken into account in succeeding periods. The state plan as submitted for consideration under the National Energy Conservation Policy Act shall not be in conflict with any state law or regulation.

Notwithstanding the provisions of s. 377.703, the commission shall be the responsible state agency for performing, coordinating, implementing, or administering the functions of the state plan submitted for consideration under the National Energy Conservation Policy Act and any acts amendatory thereof or supplemental thereto and for performing, coordinating, implementing, or administering the functions of any future federal program delegated to the state which relates to consumption, utilization, or conservation of electricity or natural gas; and the commission shall have exclusive responsibility for preparing all reports, information, analyses, recommendations, and materials related to consumption, utilization, or conservation of electrical energy which are required or authorized by s. 377.703.

(b) The Executive Office of the Governor shall be a party in the proceedings to adopt goals and shall file with the commission comments on the proposed goals including, but not limited to:

1. An evaluation of utility load forecasts, including an assessment of alternative supply and demand-side resource options;

2. An analysis of various policy options which can be implemented to achieve a least cost strategy.

(13) The commission shall establish all minimum requirements for energy auditors used by each utility. The commission is authorized to contract with any public agency or other person to provide any training, testing, evaluation, or other step necessary to fulfill the provisions of this subsection.

Section 40. Paragraph (d) of subsection (1) of section 366.8255, Florida Statutes, is amended to read:

366.8255 Environmental cost recovery.--

(1) As used in this section, the term:

(d) "Environmental compliance costs" includes all costs or expenses incurred by an electric utility in complying with environmental laws or regulations, including, but not limited to:

1. Inservice capital investments, including the electric utility’s last authorized rate of return on equity thereon;

2. Operation and maintenance expenses;

3. Fuel procurement costs;

4. Purchased power costs.
5. Emission allowance costs.

6. Direct taxes on environmental equipment.

7. Costs or expenses prudently incurred by an electric utility pursuant to an agreement entered into on or after the effective date of this act and prior to October 1, 2002, between the electric utility and the Florida Department of Environmental Protection or the United States Environmental Protection Agency for the exclusive purpose of ensuring compliance with ozone ambient air quality standards by an electrical generating facility owned by the electric utility.

8. Costs or expenses prudently incurred for the quantification, reporting, and third-party verification as required for participation in greenhouse gas emission registries for greenhouse gases as defined in s. 403.44.

9. Costs or expenses prudently incurred for scientific research and geological assessments of carbon capture and storage conducted in this state for the purpose of reducing an electric utility’s greenhouse gas emissions when such costs or expenses are incurred in joint research projects with Florida state government agencies and Florida state universities.

Section 41. Subsection (2) of section 366.91, Florida Statutes, is amended, subsection (5) is renumbered as subsection (6), and new subsections (6), (7), and (8) are added to that section, to read:

366.91 Renewable energy.

(a) "Biomass" means a power source that is comprised of, but not limited to, combustible residues or gases from forest products, agricultural and orchard crops, waste or co-products products from livestock and poultry operations, waste or byproducts from food processing, urban wood waste, municipal solid waste, municipal liquid waste treatment operations, and landfill gas.

(b) "Customer-owned renewable generation" means an electric generating system located on a customer's premises that is primarily intended to offset part or all of the customer's electricity requirements with renewable energy.

(c) "Net metering" means a metering and billing methodology whereby customer-owned renewable generation is allowed to offset the customer's electricity consumption on site.

(d) "Renewable energy" means electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat, from sulfuric acid manufacturing operations.

(5) On or before January 1, 2009, each public utility shall develop a standardized interconnection agreement and net metering program for customer-owned renewable generation. The commission shall establish requirements relating to the expedited interconnection and net metering of customer-owned renewable generation by public utilities and may adopt rules to administer this section.
On or before July 1, 2009, each municipal electric utility and each rural electric cooperative that sells electricity at retail shall develop a standardized interconnection agreement and net metering program for customer-owned renewable generation. Each governing authority shall establish requirements relating to the expedited interconnection and net metering of customer-owned generation. By April 1 of each year, each municipal electric utility and rural electric cooperative utility serving retail customers shall file a report with the commission detailing customer participation in the interconnection and net metering program, including, but not limited to, the number and total capacity of interconnected generating systems and the total energy net metered in the previous year.

Under the provisions of subsections (5) and (6), when a utility purchases power generated from biogas produced by the anaerobic digestion of agricultural waste, including food waste or other agricultural byproducts, net metering shall be available at a single metering point or as a part of conjunctive billing of multiple points for a customer at a single location, so long as the provision of such service and its associated charges, terms, and other conditions are not reasonably projected to result in higher cost electric service to the utility’s general body of ratepayers or adversely affect the adequacy or reliability of electric service to all customers, as determined by the commission for public utilities, or as determined by the governing authority of the municipal electric utility or rural electric cooperative that serves retail.

Section 42. Section 366.92, Florida Statutes, is amended to read:

(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) As used in for the purposes of this section, the term "Florida renewable energy resources" means shall mean renewable energy, as defined in s. 377.803, that is produced in Florida.

(b) "Provider" means a "utility" as defined in s. 366.8255(1)(a).

(c) "Renewable energy" means renewable energy as defined in s. 366.92(2)(d).

(d) "Renewable energy credit" or "REC" means 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.

(e) "Renewable portfolio standard" or "RPS" means the minimum percentage of total annual retail electricity sales by a
provider to consumers in Florida that shall be supplied by renewable energy produced in Florida.

(3) The commission shall adopt rules for a renewable portfolio standard requiring each provider to supply renewable energy to its customers directly, by procuring, or through renewable energy credits. In developing the RPS rule, the commission shall consult the Department of Environmental Protection and the Florida Energy and Climate Commission. The rule shall not be implemented until ratified by the Legislature. The commission shall present a draft rule for legislative consideration by February 1, 2009.

(a) In developing the rule, the commission shall evaluate the current and forecasted levelized cost in cents per kilowatt hour through 2020 and current and forecasted installed capacity in kilowatts for each renewable energy generation method through 2020.

(b) The commission's rule:

1. Shall include methods of managing the cost of compliance with the renewable portfolio standard, whether through direct supply or procurement of renewable power or through the purchase of renewable energy credits. The commission shall have rulemaking authority for providing annual cost recovery and incentive-based adjustments to authorized rate of return on common equity to providers to incentivize renewable energy. Notwithstanding s. 366.91(3) and (4), upon the ratification of the rules developed pursuant to this subsection, the commission may approve projects and power sales agreements with renewable power producers and the sale of renewable energy credits needed to comply with the renewable portfolio standard.

In the event of any conflict, this subparagraph shall supersede s. 366.91(3) and (4). However, nothing in this section shall alter the obligation of each public utility to continuously offer a purchase contract to producers of renewable energy.

2. Shall provide for appropriate compliance measures and the conditions under which noncompliance shall be excused due to a determination by the commission that the supply of renewable energy or renewable energy credits was not adequate to satisfy the demand for such energy or that the cost of securing renewable energy or renewable energy credits was cost prohibitive.

3. May provide added weight to energy provided by wind and solar photovoltaic over other forms of renewable energy, whether directly supplied or procured or indirectly obtained through the purchase of renewable energy credits.

4. Shall determine an appropriate period of time for which renewable energy credits may be used for purposes of compliance with the renewable portfolio standard.

5. Shall provide for monitoring of compliance with and enforcement of the requirements of this section.

6. Shall ensure that energy credited toward compliance with the requirements of this section is not credited toward any other purpose.

7. Shall include procedures to track and account for renewable energy credits, including ownership of renewable energy credits that are derived from a customer-owned renewable energy facility as a result of any action by a customer of an

Page 97 of 237

CODING: Words struck are deletions; words underlined are additions.
2726   electric power supplier that is independent of a program
2727   sponsored by the electric power supplier.
2728   8. Shall provide for the conditions and options for the
2729   repeal or alteration of the rule in the event that new
2730   provisions of federal law supplant or conflict with the rule.
2731   (c) Beginning on April 1 of the year following final
2732   adoption of the commission's renewable portfolio standard rule,
2733   each provider shall submit a report to the commission describing
2734   the steps that have been taken in the previous year and the
2735   steps that will be taken in the future to add renewable energy
2736   to the provider's energy supply portfolio. The report shall
2737   state whether the provider was in compliance with the renewable
2738   portfolio standard during the previous year and how it will
2739   comply with the renewable portfolio standard in the upcoming
2740   year.
2741   (4) In order to demonstrate the feasibility and viability
2742   of clean energy systems, the commission shall provide for full
2743   cost recovery under the environmental cost-recovery clause of
2744   all reasonable and prudent costs incurred by a provider for
2745   renewable energy projects that are zero greenhouse gas emitting
2746   at the point of generation, up to a total of 110 megawatts
2747   statewide, and for which the provider has secured necessary
2748   land, zoning permits, and transmission rights within the state.
2749   Such costs shall be deemed reasonable and prudent for purposes
2750   of cost recovery so long as the provider has used reasonable and
2751   customary industry practices in the design, procurement, and
2752   construction of the project in a cost-effective manner
2753   appropriate to the location of the facility. The provider shall
2754   report to the commission as part of the cost-recovery
2755   proceedings the construction costs, in-service costs, operating
2756   and maintenance costs, hourly energy production of the renewable
2757   energy project, and any other information deemed relevant by the
2758   commission. Any provider constructing a clean energy facility
2759   pursuant to this section shall file for cost recovery no later
2760   than July 1, 2009.
2761   (5) Each municipal electric utility and rural electric
2762   cooperative shall develop standards for the promotion,
2763   encouragement, and expansion of the use of renewable energy
2764   resources and energy conservation and efficiency measures. On or
2765   before April 1, 2009, and annually thereafter, each municipal
2766   electric utility and electric cooperative shall submit to the
2767   commission a report that identifies such standards.
2768   (6) Nothing in this section shall be construed to impede or impair terms and conditions of existing contracts.
2769   (7) The commission may adopt appropriate goals for increasing the use of existing, expanded, and new Florida
2770   renewable energy resources. The commission may change the goals.
2771   The commission may review and reestablish the goals at least once every 5 years.
2772   (7.1) The commission may adopt rules to administer and implement the provisions of this section.
2773   Section 43. Subsections (1), (2), and (6) of section
2774   366.93, Florida Statutes, are amended to read:
2775   366.93 Cost recovery for the siting, design, licensing, and construction of nuclear and integrated gasification combined
2776   cycle power plants.--
(1) As used in this section, the term:

(a) "Cost" includes, but is not limited to, all capital investments, including rate of return, any applicable taxes, and all expenses, including operation and maintenance expenses, related to or resulting from the siting, licensing, design, construction, or operation of the nuclear power plant, including new, expanded, or relocated electrical transmission lines or facilities of any size that are necessary thereto, or of the integrated gasification combined cycle power plant.

(b) "Electric utility" or "utility" has the same meaning as that provided in s. 366.8255(1)(a).

(c) "Integrated gasification combined cycle power plant" or "plant" means an electrical power plant as defined in s. 403.503(14)(14) that uses synthesis gas produced by integrated gasification technology.

(d) "Nuclear power plant" or "plant" means an electrical power plant as defined in s. 403.503(14)(14) that uses nuclear materials for fuel.

(e) "Power plant" or "plant" means a nuclear power plant or an integrated gasification combined cycle power plant.

(f) "Preconstruction" is that period of time after a site, including any related electrical transmission lines or facilities, has been selected through and including the date the utility completes site clearing work. Preconstruction costs shall be afforded deferred accounting treatment and shall accrue a carrying charge equal to the utility's allowance for funds during construction (AFUDC) rate until recovered in rates.

(2) Within 6 months after the enactment of this act, the commission shall establish, by rule, alternative cost recovery mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of a nuclear power plant, including new, expanded, or relocated electrical transmission lines and facilities that are necessary thereto, or of an integrated gasification combined cycle power plant. Such mechanisms shall be designed to promote utility investment in nuclear or integrated gasification combined cycle power plants and allow for the recovery in rates of all prudently incurred costs and shall include, but are not limited to:

(a) Recovery through the capacity cost recovery clause of any preconstruction costs.

(b) Recovery through an incremental increase in the utility's capacity cost recovery clause rates of the carrying costs on the utility's projected construction cost balance associated with the nuclear or integrated gasification combined cycle power plant. To encourage investment and provide certainty, for nuclear or integrated gasification combined cycle power plant need petitions submitted on or before December 31, 2010, associated carrying costs shall be equal to the pretax AFUDC in effect upon this act becoming law. For nuclear or integrated gasification combined cycle power plants for which need petitions are submitted after December 31, 2010, the utility's existing pretax AFUDC rate is presumed to be appropriate unless determined otherwise by the commission in the determination of need for the nuclear or integrated gasification combined cycle power plant.
(6) If in the event the utility elects not to complete or
is precluded from completing construction of the nuclear power
plant, including new, expanded, or relocated electrical
transmission lines or facilities necessary thereto, or of the
integrated gasification combined cycle power plant, the utility
shall be allowed to recover all prudent preconstruction and
construction costs incurred following the commission's issuance
of a final order granting a determination of need for the
nuclear power plant and electrical transmission lines and
facilities necessary thereto or for the integrated gasification
combined cycle power plant. The utility shall recover such costs
through the capacity cost recovery clause over a period equal to
the period during which the costs were incurred or 5 years,
whichever is greater. The unrecovered balance during the
recovery period will accrue interest at the utility's weighted
average cost of capital as reported in the commission's earnings
surveillance reporting requirement for the prior year.

Section 44. Section 377.601, Florida Statutes, is amended
to read:

377.601 Legislative intent.--

(1) The Legislature finds that the state's energy security
can be increased by lessening dependence on foreign oil; that
the impacts of global climate change can be reduced through the
reduction of greenhouse gas emissions; and that the
implementation of alternative energy technologies can be a
source of new jobs and employment opportunities for many
Floridians. The Legislature further finds that the state is
positioned at the forefront against potential impacts of global
climate change. Human and economic costs of those impacts can be
averted by global actions and, where necessary, adapted to by a
concerted effort to make Florida's communities more resilient
and less vulnerable to these impacts. In focusing the
government's policy and efforts to benefit and protect our
state, its citizens, and its resources, the Legislature believes
that a single government entity with a specific focus on energy
and climate change is both desirable and advantageous. Further,
the Legislature finds that energy infrastructure provides the
foundation for secure and reliable access to the energy supplies
and services on which Florida depends. Therefore, there is
significant value to Florida consumers that comes from
investment in Florida's energy infrastructure that increases
system reliability, enhances energy independence and
diversification, stabilizes energy costs, and reduces greenhouse
gas emissions ability to deal effectively with present shortages
of resources used in the production of energy is aggravated and
intensified because of inadequate or nonexistent information and
that intelligent response to these problems and to the
development of a state energy policy demands accurate and
relevant information concerning energy supply, distribution, and
use. The Legislature finds and declares that a procedure for the
collection and analysis of data on the energy flow in this state
is essential to the development and maintenance of an energy
profile defining the characteristics and magnitudes of present
and future energy demands and availability so that the state may
rationally deal with present energy problems and anticipate
future energy problems.
(2) The Legislature further recognizes that every state
official dealing with energy problems should have current and
reliable information on the type and quantity of energy
resources produced, imported, converted, distributed, exported,
stored, held in reserve, or consumed within the state.

(3) It is the intent of the Legislature in the passage of
this act to provide the necessary mechanisms for the effective
development of information necessary to rectify the present lack
of information which is seriously handicapping the state’s
ability to deal effectively with the energy problem. To this
end, the provisions of ss. 377.601, 377.608 should be given the
broadest possible interpretation consistent with the stated
legislative desire to procure vital information.

(4) It is the policy of the State of Florida to:
(a) Develop and promote the effective use of energy in the
state, and discourage all forms of energy waste, and recognize
and address the potential of global climate change wherever
possible.
(b) Play a leading role in developing and instituting
energy management programs aimed at promoting energy
conservation, energy security, and the reduction of greenhouse
gas emissions.
(c) Include energy considerations in all state, regional,
and local planning.
(d) Utilize and manage effectively energy resources used
within state agencies.

(e) Encourage local governments to include energy
considerations in all planning and to support their work in
promoting energy management programs.
(f) Include the full participation of citizens in the
development and implementation of energy programs.
(g) Consider in its decisions the energy needs of each
economic sector, including residential, industrial, commercial,
agricultural, and governmental uses, and reduce those needs
whenever possible.
(h) Promote energy education and the public dissemination
of information on energy and its environmental, economic, and
social impact.
(i) Encourage the research, development, demonstration,
and application of alternative energy resources, particularly
renewable energy resources.
(j) Consider, in its decisionmaking, the social, economic,
and environmental impacts of energy-related activities,
including the whole-life-cycle impacts of any potential energy
use choices, so that detrimental effects of these activities are
understood and minimized.
(k) Develop and maintain energy emergency preparedness
plans to minimize the effects of an energy shortage within
Florida.

Section 45. All of the records, property, unexpended
balances of appropriations, and personnel related to the Florida
Energy Commission for the administration and implementation of
s. 377.903, Florida Statutes, shall be transferred from the
Office of Legislative Services to the Florida Energy and Climate

CODING: Words [deletion] are deletions; words [addition] are additions.
Commission in the Executive Office of the Governor. The
Executive Office of the Governor is authorized to establish four
full-time equivalent positions to staff the Florida Energy and
Climate Commission.
Section 46. Section 377.6015, Florida Statutes, is created
to read:

377.6015 Florida Energy and Climate Commission.--
(1) The Florida Energy and Climate Commission is created
within the Executive Office of the Governor. The commission
shall be comprised of nine members appointed by the Governor,
the Commissioner of Agriculture, and the Chief Financial
Officer.
(a) The Governor shall appoint one member from three
persons nominated by the Florida Public Service Commission
Nominating Council, created in s. 350.031, to each of seven
seats on the commission. The Commissioner of Agriculture shall
appoint one member from three persons nominated by the council
to one seat on the commission. The Chief Financial Officer shall
appoint one member from three persons nominated by the council
to one seat on the commission.
1. The council shall submit the recommendations to the
Governor, the Commissioner of Agriculture, and the Chief
Financial Officer by September 1 of those years in which the
terms are to begin the following October or within 60 days after
vacancy occurs for any reason other than the expiration of the
term. The Governor, the Commissioner of Agriculture, and the
Chief Financial Officer may offer names of persons to be
considered for nomination by the council.
2. The Governor, the Commissioner of Agriculture, and the
Chief Financial Officer shall fill a vacancy occurring on the
commission by appointment of one of the applicants nominated by
the council only after a background investigation of such
applicant has been conducted by the Department of Law
Enforcement.
3. Members shall be appointed to 3-year terms; however, in
order to establish staggered terms, for the initial
appointments, the Governor shall appoint four members to 3-year
terms, two members to 2-year terms, and one member to a 1-year
term, and the Commissioner of Agriculture and the Chief
Financial Officer shall each appoint one member to a 3-year term
and shall appoint a successor when that appointee's term expires
in the same manner as the original appointment.
4. The Governor shall select from the membership of the
commission one person to serve as chair.
5. A vacancy on the commission shall be filled for the
unexpired portion of the term in the same manner as the original
appointment.
6. If the Governor, the Commissioner of Agriculture, or
the Chief Financial Officer has not made an appointment within
30 consecutive calendar days after the receipt of the
recommendations, the council shall initiate, in accordance with
this section, the nominating process within 30 days.
7. Each appointment to the commission shall be subject to
confirmation by the Senate during the next regular session after
the vacancy occurs. If the Senate refuses to confirm or fails to
consider the appointment of the Governor, the Commissioner of
Agriculture, or the Chief Financial Officer, the council shall initiate, in accordance with this section, the nominating process within 30 days.

(b) Members must meet the following qualifications and restrictions:

1. 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 commission. The commission shall fairly represent the fields specified in this subparagraph.

2. Each member shall, at the time of appointment and at each commission meeting during his or her term of office, disclose:

   a. 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 commission.

   b. 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 commission.

c. The chair may designate the following ex officio, nonvoting members to provide information and advice to the commission at the request of the chair:

   1. The chair of the Florida Public Service Commission, or his or her designee.

   2. The Public Counsel, or his or her designee.

   3. A representative of the Department of Agriculture and Consumer Services.


   5. A representative of the Department of Environmental Protection.

   6. A representative of the Department of Community Affairs.

   7. A representative of the Board of Governors of the State University System.

   8. A representative of the Department of Transportation.

   2. Members shall serve without compensation but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061.

   (3) Meetings of the commission may be held in various locations around the state and at the call of the chair; however, the commission must meet at least six times each year.

   (4) The commission may:

   a. Employ staff and counsel as needed in the performance of its duties.

   b. Prosecute and defend legal actions in its own name.

   c. Form advisory groups consisting of members of the commission.
public to provide information on specific issues.

(5) The commission shall:

(a) Administer the Florida Renewable Energy and Efficient Technologies Grants Program pursuant to s. 377.804 to assure a robust grant portfolio.

(b) Develop policy for requiring grantees to provide royalty-sharing or licensing agreements with state government for commercialized products developed under a state grant.

(c) Administer the Florida Green Government Grants Act pursuant to s. 377.808 and set annual priorities for grants.

(d) Administer the information gathering and reporting functions pursuant to ss. 377.601-377.608.

(e) Administer petroleum planning and emergency contingency planning pursuant to ss. 377.701, 377.703, and 377.704.

(f) Represent Florida in the Southern States Energy Compact pursuant to ss. 377.71-377.712.

(g) 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 provide specific recommendations to the Governor and the Legislature each year to improve results.

(h) Administer the provisions of the Florida Energy and Climate Protection Act pursuant to ss. 377.801-377.806.

(i) Advocate for energy and climate change issues and provide educational outreach and technical assistance in cooperation with the state's academic institutions.
(e) All types of nuclear energy, special nuclear material, and source material, as defined in former s. 290.07.

(f) Every other energy resource, whether natural or manmade which the department determines to be important to the production or supply of energy, including, but not limited to, energy converted from solar radiation, wind, hydraulic potential, tidal movements, and geothermal sources.

(f) All electrical energy.

(2) "Department" means the Department of Environmental Protection.

(3) "Person" means producer, refiner, wholesaler, marketer, consignee, jobber, distributor, storage operator, importer, exporter, firm, corporation, broker, cooperative, public utility as defined in s. 366.02, rural electrification cooperative, municipality engaged in the business of providing electricity or other energy resources to the public, pipeline company, person transporting any energy resources as defined in subsection (2), (4), and person holding energy reserves for further production; however, "person" does not include persons exclusively engaged in the retail sale of petroleum products.

Section 48. All of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allotments, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the state energy program in the Department of Environmental Protection, as authorized and governed by ss. 20.255, 288.041, 377.601-377.608, 377.703, and 377.801-377.806, Florida Statutes, are transferred by a type two transfer, pursuant to s. 20.06(2).
stores, sells, or holds known reserves of any form of energy
resources used as fuel shall report to the commission, at the
request of department at a frequency set, and in a manner
prescribed, by the commission department, on forms provided by
the commission department and prepared with the advice of
representatives of the energy industry. Such forms shall be
designed in such a manner as to indicate:
(1) The identity of the person or persons making the
report.
(2) The quantity of energy resources extracted, produced,
imported, exported, refined, transported, transmitted,
converted, stored, or sold except at retail.
(3) The quantity of energy resources known to be held in
reserve in the state.
(4) The identity of each refinery from which petroleum
products have normally been obtained and the type and quantity
of products secured from that refinery for sale or resale in
this state.
(5) Any other information which the commission department
deems proper pursuant to the intent of ss. 377.601-377.608.
Section 51. Section 377.605, Florida Statutes, is amended
to read:
377.605 Use of existing information.—The commission may
department shall utilize to the fullest extent possible any
existing energy information already prepared for state or
federal agencies. Every state, county, and municipal agency
shall cooperate with the commission department and shall submit
any information on energy to the commission department upon
request.
Section 52. Section 377.606, Florida Statutes, is amended
to read:
377.606 Records of the commission department; limits of
confidentiality.—The information or records of individual
persons, as defined in this section herein, obtained by the
commission department as a result of a report, investigation, or
verification required by the commission department, shall be
open to the public, except such information the disclosure of
which would be likely to cause substantial harm to the
competitive position of the person providing such information
and which is requested to be held confidential by the person
providing such information. Such proprietary information is
confidential and exempt from the provisions of s. 119.07(1).
Information reported by entities other than the commission
department in documents or reports open to public inspection
shall under no circumstances be classified as confidential by
the commission department. Divulgence of proprietary information
as is requested to be held confidential, except upon order of a
court of competent jurisdiction or except to an officer of the
state entitled to receive the same in his or her official
capacity, shall be a misdemeanor of the second degree.
Nothing in this section herein shall be construed to prohibit the
publication or divulgence by other means of data so classified
as to prevent identification of particular accounts or reports
made to the commission department in compliance with s. 377.603
or to prohibit the disclosure of such information to properly
qualified legislative committees. The commission department
shall establish a system which permits reasonable access to
information developed.

Section 53. Section 377.608, Florida Statutes, is amended
to read:
377.608 Prosecution of cases by state attorney.--The state
attorney shall prosecute all cases certified to him or her for
prosecution by the commission department immediately upon
receipt of the evidence transmitted by the commission
department, or as soon thereafter as practicable.

Section 54. Section 377.701, Florida Statutes, is amended
to read:
377.701 Petroleum allocation.--
(1) The Florida Energy and Climate Commission Department
of Environmental Protection shall assume the state's role in
petroleum allocation and conservation, including the development
of a fair and equitable petroleum plan. The commission
department shall constitute the responsible state agency for
performing the functions of any federal program delegated to the
state, which relates to petroleum supply, demand, and
allocation.

(2) The commission department shall, in addition to
assuming the duties and responsibilities provided by subsection
(1), perform the following:
(a) In projecting available supplies of petroleum,
coordinate with the Department of Revenue to secure information
necessary to assure the sufficiency and accuracy of data
submitted by persons affected by any federal fuel allocation
program.
(b) Require such periodic reports from public and private
sources as may be necessary to the fulfillment of its
responsibilities under this act. Such reports may include:
petroleum use; all sales, including end-user sales, except
retail gasoline and retail fuel oil sales; inventories; expected
supplies and allocations; and petroleum conservation measures.
(c) In cooperation with the Department of Revenue and
other relevant state agencies, provide for long-range studies
regarding the usage of petroleum in the state in order to:
1. Comprehend the consumption of petroleum resources.
2. Predict future petroleum demands in relation to
available resources.
3. Report the results of such studies to the Legislature.

(3) For the purpose of determining accuracy of data, all
state agencies shall timely provide the commission department
with petroleum-use information in a format suitable to the needs
of the allocation program.

(4) No state employee may not shall divulge or make
known in any manner any proprietary information acquired under
this act if the disclosure of such information would be likely
to cause substantial harm to the competitive position of the
person providing such information and if the person requests
that such information be held confidential, except in accordance
with a court order or in the publication of statistical
information compiled by methods which do would not disclose the
identity of individual suppliers or companies. Such proprietary
information is confidential and exempt from the provisions of s. 3310
119.07(1). Nothing in this subsection shall be construed to 3311
prevent inspection of reports by the Attorney General, members 3312
of the Legislature, and interested state agencies; however, such 3313
agencies and their employees and members are bound by the 3314
requirements set forth in this subsection.
3315
(5) Any person who willfully fails to submit information 3316
required by this act or submits false information or who 3317
violates any provision of this act commits a misdemeanor of the 3318
first degree and shall be punished as provided in ss. 775.082 and 775.083.
Section 55. Section 377.703, Florida Statutes, is amended 3319
to read:
3320
377.703 Additional functions of the Florida Energy and 3321
Climate Commission Department of Environmental Protection; 3322
energy emergency contingency plan; federal and state 3323
conservation programs.--
3324
(1) LEGISLATIVE INTENT.--Recognizing that energy supply 3325
and demand questions have become a major area of concern to the 3326
state which must be dealt with by effective and well-coordinated 3327
state action, it is the intent of the Legislature to promote the 3328
efficient, effective, and economical management of energy 3329
problems, centralize energy coordination responsibilities, 3330
pinpoint responsibility for conducting energy programs, and 3331
ensure the accountability of state agencies for the 3332
implementation of s. 377.601(2)(4), the state energy policy. It 3333
is the specific intent of the Legislature that nothing in this 3334
act shall in any way change the powers, duties, and 3335
expenses assigned by the Florida Electrical Power Plant 3336
Siting Act, part II of chapter 403, or the powers, duties, and 3337
responsibilities of the Florida Public Service Commission.
3338
(a) DEFINITIONS.--
3339
(b) "Energy conservation" means increased efficiency in 3340
the utilization of energy.
3341
(c) "Energy emergency" means an actual or impending 3342
shortage or curtailment of usable, necessary energy resources, 3343
such that the maintenance of necessary services, the protection 3344
of public health, safety, and welfare, or the maintenance of 3345
basic sound economy is imperiled in any geographical section of 3346
the state or throughout the entire state.
3347
(d) "Energy source" means electricity, fossil fuels, solar 3348
power, wind power, hydroelectric power, nuclear power, or any 3349
other resource which has the capacity to do work.
3350
(e) "Facilities" means any building or structure not 3351
otherwise exempted by the provisions of this act.
3352
(f) "Fuel" means petroleum, crude oil, petroleum product, 3353
coal, natural gas, or any other substance used primarily for its 3354
energy content.
3355
(g) "Local government" means any county, municipality, 3356
regional planning agency, or other special district or local 3357
governmental entity the policies or programs of which may affect
the supply or demand, or both, for energy in the state.

(h) "Promotion" or "promote" means to encourage, aid,
assist, provide technical and financial assistance, or otherwise
seek to plan, develop, and expand.

(i) "Regional planning agency" means those agencies
designated as regional planning agencies by the Department of
Community Affairs.

(j) "Renewable energy resource" means any method, process,
or substance the use of which does not diminish its availability
or abundance, including, but not limited to, biomass conversion;
geothermal energy, solar energy, wind energy, wood fuels derived
from waste, ocean thermal gradient power, hydroelectric power,
and fuels derived from agricultural products.

(2)(d) FLORIDA ENERGY AND CLIMATE COMMISSION DEPARTMENT OF
ENVIRONMENTAL PROTECTION; DUTIES.--The commission Department of
Environmental Protection shall, in addition to assuming the
duties and responsibilities provided by ss. 26-355 and 272.081,
perform the following functions consistent with the development
of a state energy policy:

(a) The commission department shall assume the
responsibility for development of an energy emergency
contingency plan to respond to serious shortages of primary and
secondary energy sources. Upon a finding by the Governor,
implementation of any emergency program shall be upon order of
the Governor that a particular kind or type of fuel is, or that
the occurrence of an event which is reasonably expected within
30 days will make the fuel, in short supply. The commission

Page 121 of 237
CODING: Words [deleted] are deletions; words [underlined] are additions.

3366 department shall then respond by instituting the appropriate
3367 measures of the contingency plan to meet the given emergency or
3368 energy shortage. The Governor may utilize the provisions of s.
3369 252.36(5) to carry out any emergency actions required by a
3370 serious shortage of energy sources.

(b) The commission department shall be constitute the
responsible state agency for performing or coordinating the
functions of any federal energy programs delegated to the state,
including energy supply, demand, conservation, or allocation.

(c) The commission department shall analyze present and
proposed federal energy programs and make recommendations
regarding those programs to the Governor and the Legislature.

(d) The commission department shall coordinate efforts to
seek federal support or other support for state energy
activities, including energy conservation, research, or
development, and shall be the state agency responsible for the
coordination of multiagency energy conservation programs and
plans.

(e) The commission department shall analyze energy data
collected and prepare long-range forecasts of energy supply and
demand in coordination with the Florida Public Service
Commission, which shall have responsibility for electricity and
natural gas forecasts. To this end, the forecasts shall contain:

1. An analysis of the relationship of state economic
growth and development to energy supply and demand, including
the constraints to economic growth resulting from energy supply
constraints.
2. Plans for the development of renewable energy resources and reduction in dependence on depletable energy resources, particularly oil and natural gas, and an analysis of the extent to which renewable energy sources are being utilized in the state.

3. Consideration of alternative scenarios of statewide energy supply and demand for 5, 10, and 20 years to identify strategies for long-range action, including identification of potential social, economic, and environmental effects.

4. An assessment of the state’s energy resources, including examination of the availability of commercially developable and imported fuels, and an analysis of anticipated effects on the state’s environment and social services resulting from energy resource development activities or from energy supply constraints, or both.

(f) The commission department shall submit an annual report to make a report, as requested by the Governor and or the Legislature, reflecting its activities and making recommendations of policies for improvement of the state’s response to energy supply and demand and its effect on the health, safety, and welfare of the people of Florida. The report shall include a report from the Florida Public Service Commission on electricity and natural gas and information on energy conservation programs conducted under the Florida Energy Conservation Act. The report shall also include recommendations for energy conservation programs for the state, including, but not limited to, the following factors:

1. Formulation of specific recommendations for improvement in the efficiency of energy utilization in governmental, residential, commercial, industrial, and transportation sectors.

2. Collection and dissemination of information relating to energy conservation.

3. Development and conduct of educational and training programs relating to energy conservation.

4. An analysis of the ways in which state agencies are seeking to implement s. 377.6012(4), the state energy policy, and recommendations for better fulfilling this policy.

(g) The commission department has authority to adopt rules pursuant to ss. 120.53(1) and 120.54 to implement the provisions of this act.

(h) The commission shall promote the development and use of renewable energy resources, in conformance with the provisions of chapter 187 and s. 377.601, by:

1. Establishing goals and strategies for increasing the use of solar energy in this state.

2. Aiding and promoting the commercialization of solar energy technology, in cooperation with the Florida Solar Energy Center, Enterprise Florida, Inc., and any other federal, state, or local governmental agency which may seek to promote research, development, and demonstration of solar energy equipment and technology.

3. Identifying barriers to greater use of solar energy systems in this state, and developing specific recommendations for overcoming identified barriers, with findings and
recommendations to be submitted annually in the report to the
Governor and Legislature required under paragraph (f).

4. In cooperation with the Department of Environmental
Protection, the Department of Transportation, the Department of
Community Affairs, Enterprise Florida, Inc., the Florida Solar
Energy Center, and the Florida Solar Energy Industries
Association, investigating opportunities, pursuant to the
National Energy Policy Act of 1992 and the Housing and
Community Development Act of 1992 and any subsequent federal
legislation, for solar electric vehicles and other solar energy
manufacturing, distribution, installation, and financing efforts
which will enhance this state’s position as the leader in solar
energy research, development, and use.

5. Undertaking other initiatives to advance the
development and use of renewable energy resources in this state.

In the exercise of its responsibilities under this paragraph,
the commission department shall seek the assistance of the solar
energy industry in this state and other interested parties and
is authorized to enter into contracts, retain professional
consulting services, and expend funds appropriated by the
Legislature for such purposes.

(i) The commission department shall promote energy
conservation in all energy use sectors throughout the state and
shall constitute the state agency primarily responsible for this
function. To this end, the commission department shall
coordinate the energy conservation programs of all state
agencies and review and comment on the energy conservation
programs of all state agencies.

(j) The commission department shall serve as the state
clearinghouse for indexing and gathering all information related
to energy programs in state universities, in private
universities, in federal, state, and local government agencies,
and in private industry and shall prepare and distribute such
information in any manner necessary to inform and advise the
citizens of the state of such programs and activities. This
shall include developing and maintaining a current index and
profile of all research activities, which shall be identified by
energy area and may include a summary of the project, the amount
and sources of funding, anticipated completion dates, or, in
case of completed research, conclusions, recommendations, and
applicability to state government and private sector functions.

The commission department shall coordinate, promote, and respond
to efforts by all sectors of the economy to seek financial
support for energy activities. The commission department shall
provide information to consumers regarding the anticipated
energy-use and energy-saving characteristics of products and
services in coordination with any federal, state, or local
governmental agencies as may provide such information to
consumers.

(k) The commission department shall coordinate energy-
related programs of state government, including, but not limited
to, the programs provided in this section. To this end, the
commission department shall:
1. Provide assistance to other state agencies, counties, municipalities, and regional planning agencies to further and promote their energy planning activities.

2. Require, in cooperation with the Department of Management Services, all state agencies to operate state-owned and state-leased buildings in accordance with energy conservation standards as adopted by the Department of Management Services. Every 3 months, the Department of Management Services shall furnish the commission the data on agencies' energy consumption and emissions of greenhouse gases in a format prescribed by the commission mutually agreed upon by the two departments.

3. Promote the development and use of renewable energy resources, energy efficiency technologies, and conservation measures.

4. Promote the recovery of energy from wastes, including, but not limited to, the use of waste heat, the use of agricultural products as a source of energy, and recycling of manufactured products. Such promotion shall be conducted in conjunction with, and after consultation with, the Department of Environmental Protection and the Florida Public Service Commission where electrical generation or natural gas is involved, and any other relevant federal, state, or local governmental agency having responsibility for resource recovery programs.

   (1) The commission shall develop, coordinate, and promote a comprehensive research plan for state programs.

Such plan shall be consistent with state energy policy and shall be updated on a biennial basis.

   (m) In recognition of the devastation to the economy of this state and the dangers to the health and welfare of residents of this state caused by severe hurricanes Hurricane Andrew, and the potential for such impacts caused by other natural disasters, the commission department shall include in its energy emergency contingency plan and provide to the Florida Building Commission Department of Community Affairs for inclusion in the Florida Energy Efficiency Code for Building Construction state model energy efficiency building code specific provisions to facilitate the use of cost-effective solar energy technologies as emergency remedial and preventive measures for providing electric power, street lighting, and water heating service in the event of electric power outages.

   (3)(4) The commission department shall be responsible for the administration of the Coastal Energy Impact Program provided for and described in Pub. L. No. 94-370, 16 U.S.C. s. 1456a. Section 56. Paragraph (a) of subsection (2) of section 377.705, Florida Statutes, is amended to read:

   377.705 Solar Energy Center; development of solar energy standards.--

   (2) LEGISLATIVE FINDINGS AND INTENT.--

   (a) The legislature recognizes that if present trends continue, Florida will increase present energy consumption sixfold by the year 2000. Because of this dramatic increase and because existing domestic conventional energy resources will not provide sufficient energy to meet the nation's future needs, now
source of energy must be developed and applied. One such
source of solar energy, has been in limited use in Florida for 30
years. Applications of incident solar energy, the use of solar
radiation to provide energy for water heating, space heating,
space cooling, and other uses, through suitable absorbing
equipment on or near a residence or commercial structure, must
be extensively expanded. Unfortunately, the initial costs with
regard to the production of solar energy have been prohibitively
expensive. However, because of increases in the cost of
conventional fuel, certain applications of solar energy are
becoming competitive, particularly when life-cycle costs are
considered. It is the intent of the Legislature in formulating a
sound and balanced energy policy for the state to encourage the
development of an alternative energy capability in the form of
incident solar energy.

Section 57. Section 377.801, Florida Statutes, is amended
to read:

377.801 Short title.--Sections 377.801-377.806 may be
cited as the "Florida Energy and Climate Protection Renewable
Energy Technologies and Energy Efficiency Act."

Section 58. Section 377.802, Florida Statutes, is amended
to read:

377.802 Purpose.--This act is intended to provide
incentives for Florida's citizens, businesses, school districts,
and local governments to take action to diversify the state's
energy supplies, reduce dependence on foreign oil, and mitigate
the effects of climate change by providing funding for
activities designed to achieve these goals. The grant programs

in this act are intended matching grants to stimulate capital
investment in the state and to enhance the market for and
promote the statewide utilization of renewable energy
technologies and technologies intended to diversify Florida's
energy supplies, reduce dependence on foreign oil, and combat or
limit climate change impacts. The targeted grant program is
designed to advance the already growing establishment of
renewable energy technologies in the state and encourage the use
of other incentives, such as tax exemptions and regulatory
certainty to attract additional renewable energy technology
producers, developers, and users to the state. This act is also
intended to provide incentives for the purchase of energy-
efficient appliances and rebates for solar energy equipment
installations for residential and commercial buildings.

Section 59. Section 377.803, Florida Statutes, is amended
to read:

377.803 Definitions.--As used in ss. 377.801-377.806, the
term:

1. "Act" means the Florida Energy and Climate Protection

2. "Approved metering equipment" means a device capable
of measuring the energy output of a solar thermal system that
has been approved by the commission.

3. "Commission" means the Florida Energy and Climate
Public Service Commission.

4. "Department" means the Department of Environmental
Protection.
"Person" means an individual, partnership, joint
venture, private or public corporation, association, firm,
public service company, or any other public or private entity.
"Renewable energy" means electrical, mechanical, or
thermal energy produced from a method that uses one or more of
the following fuels or energy sources: hydrogen, biomass, as
defined in s. 366.91, solar energy, geothermal energy, wind
energy, ocean energy, waste heat, or hydroelectric power.
"Renewable energy technology" means any technology
that generates or utilizes a renewable energy resource.
"Solar energy system" means equipment that provides
for the collection and use of incident solar energy for water
heating, space heating or cooling, or other applications that
would normally require a conventional source of energy such as
petroleum products, natural gas, or electricity that performs
primarily with solar energy. In other systems in which solar
energy is used in a supplemental way, only those components that
collect and transfer solar energy shall be included in this
definition.
"Solar photovoltaic system" means a device that
converts incident sunlight into electrical current.
"Solar thermal system" means a device that traps
heat from incident sunlight in order to heat water.
Section 60. Section 377.804, Florida Statutes, as amended
by section 52 of chapter 2007-73, Laws of Florida, is amended to
read:
377.804 Renewable Energy and Energy-Efficient Technologies
Grants Program.--

(1) The Renewable Energy and Energy-Efficient Technologies
Grants Program is established within the commission department
to provide renewable energy matching grants for demonstration,
commercialization, research, and development projects relating
to renewable energy technologies and innovative technologies
that significantly increase energy efficiency for vehicles and
commercial buildings.

(2) Matching grants for renewable energy technology
demonstration, commercialization, research, and development
projects described in subsection (1) may be made to any of the
following:
(a) Municipalities and county governments.
(b) Established for-profit companies licensed to do
business in the state.
(c) Universities and colleges in the state.
(d) Utilities located and operating within the state.
(e) Not-for-profit organizations.
(f) Other qualified persons, as determined by the
commission department.

(3) The commission department may adopt rules pursuant to
ss. 120.536(1) and 120.54 to provide for application
requirements, provide for ranking of applications, and
administer the awarding of grants under this program.

(4) Factors the commission department shall consider in
awarding grants include, but are not limited to:
(a) The availability of matching funds or other in-kind
contributions applied to the total project from an applicant.

The commission department shall give greater preference to
projects that provide such matching funds or other in-kind contributions.

(b) The degree to which the project stimulates in-state capital investment and economic development in metropolitan and rural areas, including the creation of jobs and the future development of a commercial market for renewable energy technologies.

(c) The extent to which the proposed project has been demonstrated to be technically feasible based on pilot project demonstrations, laboratory testing, scientific modeling, or engineering or chemical theory that supports the proposal.

(d) The degree to which the project incorporates an innovative new technology or an innovative application of an existing technology.

(e) The degree to which a project generates thermal, mechanical, or electrical energy by means of a renewable energy resource that has substantial long-term production potential.

(f) The degree to which a project demonstrates efficient use of energy and material resources.

(g) The degree to which the project fosters overall understanding and appreciation of renewable energy technologies.

(h) The ability to administer a complete project.

(i) Project duration and timeline for expenditures.

(j) The geographic area in which the project is to be conducted in relation to other projects.

(k) The degree of public visibility and interaction.

(5) The commission department shall solicit the expertise of other state agencies, Enterprise Florida, Inc., and state universities, and may solicit the expertise of other public and private entities it deems appropriate, in evaluating project proposals. State agencies shall cooperate with the commission Department of Environmental Protection and provide such assistance as requested.

(6) The commission department shall coordinate and actively consult with the Department of Agriculture and Consumer Services during the review and approval process of grants relating to bioenergy projects for renewable energy technology, and the department shall jointly determine the grant awards to these bioenergy projects. No grant funding shall be awarded to any bioenergy project without such joint approval. Factors for consideration in awarding grants may include, but are not limited to, the degree to which:

(a) The project stimulates in-state capital investment and economic development in metropolitan and rural areas, including the creation of jobs and the future development of a commercial market for bioenergy.

(b) The project produces bioenergy from Florida-grown crops or biomass.

(c) The project demonstrates efficient use of energy and material resources.

(d) The project fosters overall understanding and appreciation of bioenergy technologies.

(e) Matching funds and in-kind contributions from an applicant are available.

(f) The project duration and the timeline for expenditures are acceptable.
(g) The project has a reasonable assurance of enhancing
the value of agricultural products or will expand agribusiness
in the state.

(h) Preliminary market and feasibility research has been
conducted by the applicant or others and shows there is a
reasonable assurance of a potential market.

(7) Each grant application shall be accompanied by an
affidavit from the applicant attesting to the accuracy of the
statements contained in the application.

Section 61. Section 377.806, Florida Statutes, is amended
to read:

377.806 Solar Energy System Incentives Program.--
1. PURPOSE.--The Solar Energy System Incentives Program
is established within the commission department to provide
financial incentives for the purchase and installation of solar
energy systems. Any resident of the state who purchases and
installs a new solar energy system of 2 kilowatts or larger for
a solar photovoltaic system, a solar energy system that provides
at least 50 percent of a building's hot water consumption for a
solar thermal system, or a solar thermal pool heater, from July
1, 2006, through June 30, 2010, is eligible for a rebate on a
portion of the purchase price of that solar energy system.

2. The system complies with state interconnection
standards as provided by the Florida Public Service Commission.

3. The system complies with all applicable building codes
as defined by the Florida Building Code local jurisdictional
authority.

(b) Rebate amounts.--The rebate amount shall be set at $4
per watt based on the total wattage rating of the system. The
maximum allowable rebate per solar photovoltaic system
installation shall be as follows:

1. Twenty thousand dollars for a residence.
2. One hundred thousand dollars for a place of business, a
   publicly owned or operated facility, or a facility owned or
   operated by a private, not-for-profit organization, including
   condominiums or apartment buildings.

3. SOLAR THERMAL SYSTEM INCENTIVE.--

(a) Eligibility requirements.--A solar thermal system
qualifies for a rebate if:

1. The system is installed by a state-licensed solar or
   plumbing contractor, or for the installation of standing seam
   hybrid thermal roofs, a roofing contractor.

2. The system complies with all applicable building codes
   as defined by the Florida Building Code local jurisdictional
   authority.

(b) Rebate amounts.--Authorized rebates for installation
of solar thermal systems shall be as follows:

1. Five hundred dollars for a residence.
2. Fifteen dollars per 1,000 Btu up to a maximum of $5,000
   for a place of business, a publicly owned or operated facility,
or a facility owned or operated by a private, not-for-profit organization, including condominiums or apartment buildings, for purposes must be verified by approved metering equipment.

4. SOLAR THERMAL POOL HEATER INCENTIVE...

(a) Eligibility requirements.--A solar thermal pool heater qualifies for a rebate if the system is installed by a state-licensed solar or plumbing contractor and the system complies with all applicable building codes as defined by the Florida Building Code local jurisdictional authority.

(b) Rebate amount.--Authorized rebates for installation of solar thermal pool heaters shall be $100 per installation.

(c) Application.--Application for a rebate must be made within 120 days after the purchase of the solar energy equipment.

(d) REBATE AVAILABILITY.--The commission department shall determine and publish on a regular basis the amount of rebate funds remaining in each fiscal year. The total dollar amount of all rebates issued by the department is subject to the total amount of appropriations in any fiscal year for this program. If funds are insufficient during the current fiscal year, any requests for rebates received during that fiscal year may be processed during the following fiscal year. Requests for rebates received in a fiscal year that are processed during the following fiscal year shall be given priority over requests for rebates received during the following fiscal year.

(e) RULES.--The commission department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to develop rebate applications and administer the issuance of rebates.

Section 62. Section 377.808, Florida Statutes, is created to read:

377.808 Florida Green Government Grants Act.---

1. This section may be cited as the "Florida Green Government Grants Act."

2. The Florida Energy and Climate Commission shall use funds specifically appropriated to award grants under this section to assist local governments, including municipalities, counties, and school districts, in the development and implementation of programs that achieve green standards. Green standards shall be determined by the commission and shall provide for cost-efficient solutions, reducing greenhouse gas emissions, improving quality of life, and strengthening the state's economy.

3. The commission shall adopt rules pursuant to chapter 120 to administer the grants provided for in this section. In accordance with the rules adopted by the commission under this section, the commission may provide grants from funds specifically appropriated for this purpose to local governments for the costs of achieving green standards, including necessary administrative expenses. The rules of the commission shall:

(a) Designate one or more suitable green government standards frameworks from which local governments may develop a greening government initiative and from which projects may be eligible for funding pursuant to this section.

(b) Require that projects that plan, design, construct, upgrade, or replace facilities reduce greenhouse gas emissions and be cost-effective, environmentally sound, permittable, and...
implementable.
(c) Require local governments to match state funds with
direct project cost sharing or in-kind services.
(d) Provide for a scale of matching requirements for local
governments on the basis of population in order to assist rural
and undeveloped areas of the state with any financial burden of
addressing climate change impacts.
(e) Require grant applications to be submitted on
appropriate forms developed and adopted by the commission with
appropriate supporting documentation and require records to be
maintained.
(f) Establish a system to determine the relative priority
of grant applications. The system shall consider greenhouse gas
reductions, energy savings and efficiencies, and proven
technologies.
(g) Establish requirements for competitive procurement of
engineering and construction services, materials, and equipment.
(h) Provide for termination of grants when program
requirements are not met.
(4) Each local government is limited to not more than two
grant applications during each application period announced by
the commission. However, a local government may not have more
than three active projects expending grant funds during any
state fiscal year.
(5) The commission shall perform an adequate overview of
each grant, which may include technical review, site
inspections, disbursement approvals, and auditing to
successfully implement this section.

Section 63. Paragraph (c) of subsection (3) of section
380.23, Florida Statutes, is amended to read:
380.23 Federal consistency.--
(3) Consistency review shall be limited to review of the
following activities, uses, and projects to ensure that such
activities, uses, and projects are conducted in accordance with
the state's coastal management program:
(c) Federally licensed or permitted activities affecting
land or water uses when such activities are in or seaward of the
jurisdiction of local governments required to develop a coastal
zone protection element as provided in s. 380.24 and when such
activities involve:
1. Permits and licenses required under the Rivers and
2. Permits and licenses required under the Marine
3. Permits and licenses required under the Federal Water
Pollution Control Act of 1972, 33 U.S.C. ss. 1251 et seq., as
amended, unless such permitting activities have been delegated
to the state pursuant to said act.
4. Permits and licenses relating to the transportation of
hazardous substance materials or transportation and dumping
which are issued pursuant to the Hazardous Materials
Transportation Act, 49 U.S.C. ss. 1501 et seq., as amended, or
33 U.S.C. s. 1321, as amended.
5. Permits and licenses required under 15 U.S.C. ss. 717-
6. Permits and licenses required for the siting and construction of any new electrical power plants as defined in s. 403.503(14), as amended, and the licensing and relicensing of hydroelectric power plants under the Federal Power Act, 16 U.S.C. ss. 791a et seq., as amended.


8. Permits and licenses for areas leased under the OCS Lands Act, 43 U.S.C. ss. 1331 et seq., as amended, including leases and approvals of exploration, development, and production plans.


emitting pollutants, and providing for the transfer of the
 allowances among pollutant sources as a means of compliance with
 emission limits.
 (c) "Greenhouse gas" or "GHG" means carbon dioxide,
methane, nitrous oxide, and fluorinated gases such as
hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.
 (d) "Leakage" means the offset of emission abatement that
is achieved in one location subject to emission control
regulation by increased emissions in unregulated locations.
 (e) "Major emitter" means an electric utility regulated
under this chapter.
 (3) A major emitter shall be required to use The Climate
Registry for purposes of emission registration and reporting.
 (4) The department shall establish the methodologies,
reporting periods, and reporting systems that shall be used when
major emitters report to The Climate Registry. The department
may require the use of quality-assured data from continuous
emissions monitoring systems.
 (5) The department may adopt rules for a cap-and-trade
regulatory program to reduce greenhouse gas emissions from major
emitters. When developing the rules, the department shall
consult with the Florida Energy and Climate Commission and the
Florida Public Service Commission and may consult with the
Governor's Action Team for Energy and Climate Change. The
department shall not adopt rules until after January 1, 2010.
The rules shall not become effective until ratified by the
Legislature.
 (6) The rules of the cap-and-trade regulatory program
shall include, but are not limited to:
 (a) A statewide limit or cap on the amount of greenhouse
gases emitted by major emitters.
 (b) Methods, requirements, and conditions for allocating
the cap among major emitters.
 (c) Methods, requirements, and conditions for emissions
allowances and the process for issuing emissions allowances.
 (d) The relationship between allowances and the specific
amounts of greenhouse gas emissions they represent.
 (e) The length of allowance periods and the time over
which entities must account for emissions and surrender
allowances equal to emissions.
 (f) The timeline of allowances from the initiation of the
program through to 2050.
 (g) A process for the trade of allowances between major
emitters, including a registry, tracking, or accounting system
for such trades.
 (h) Cost containment mechanisms to reduce price and cost
risks associated with the electric generation market in this
state. Cost containment mechanisms to be considered for
inclusion in the rules include, but are not limited to:
 1. Allowing major emitters to borrow allowances from
future time periods to meet their greenhouse gas emission
limits.
 2. Allowing major emitters to bank greenhouse gas emission
reductions in the current year to be used to meet emission
limits in future years.
 3. Allowing major emitters to purchase emissions offsets.
from other entities that produce verifiable reductions in
unregulated greenhouse gas emissions or that produce verifiable
reductions in greenhouse gas emissions through voluntary
practices that capture and store greenhouse gases that otherwise
would be released into the atmosphere. In considering this cost
containment mechanism, the department shall identify sectors and
activities outside of the capped sectors, including other state,
federal, or international activities, and the conditions under
which reductions there can be credited against emissions of
capped entities in place of allowances issued by the department.
The department shall also consider potential methods and their
effectiveness to avoid double-incentivizing such activities.

4. Providing a safety valve mechanism to ensure that the
market prices for allowances or offsets do not surpass a
predetermined level compatible with the affordability of
electric utility rates and the well-being of the state's
economy. In considering this cost containment mechanism, the
department shall evaluate different price levels for the safety
valve and methods to change the price level over time to reflect
changing state, federal, and international markets, regulatory
environments, and technological advancements.

In considering cost-containment mechanisms for inclusion in the
rules, the department shall evaluate the anticipated overall
effect of each mechanism on the abatement of greenhouse gas
emissions and on electricity ratepayer and the benefits and
costs of each to the state's economy, and shall also consider
the interrelationships between the mechanisms under
consideration.

(i) A process to allow the department to exercise its
authority to discourage leakage of GHG emissions to neighboring
states attributable to the implementation of this program.

(ii) Provisions for a trial period on the trading of
allowances before full implementation of a trading system.

(iii) In recommending and evaluating proposed features of
the cap-and-trade system, the following factors shall be
considered:

(a) The overall cost-effectiveness of the cap-and-trade
system in combination with other policies and measures in
meeting statewide targets.

(b) Minimizing the administrative burden to the state of
implementing, monitoring, and enforcing the program.

(c) Minimizing the administrative burden on entities
covered under the cap.

(d) The impacts on electricity prices for consumers.

(e) The specific benefits to the state's economy for early
adoption of a cap-and-trade system for greenhouse gases in the
context of federal climate change legislation and the
development of new international compacts.

(f) The specific benefits to the state's economy
associated with the creation and sale of emissions offsets from
economic sectors outside of the emissions cap.

(g) The potential effects on leakage if economic activity
relocates out of the state.

(h) The effectiveness of the combination of measures in
meeting identified targets.
(i) The implications for near-term periods of long-term targets specified in the overall policy.

(j) The overall costs and benefits of a cap-and-trade system to the state economy.

(k) How to moderate impacts on low-income consumers that result from energy price increases.

(l) Consistency of the program with other state and possible federal efforts.

(m) The feasibility and cost-effectiveness of extending the program scope as broadly as possible among emitting activities and sinks in Florida.

(n) Evaluation of the conditions under which Florida should consider linking its trading system to the systems of other states or other countries and how that might be affected by the potential inclusion in the rule of a safety valve.

(8) Recognizing that the international, national, and neighboring state policies and the science of climate change will evolve, prior to submitting the proposed rules to the Legislature for consideration, the department shall submit the proposed rules to the Florida Energy and Climate Commission, which shall review the proposed rules and submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the department. The report shall address:

(a) The overall cost-effectiveness of the proposed cap-and-trade system in combination with other policies and measures in meeting statewide targets.

(b) The administrative burden to the state of implementing, monitoring, and enforcing the program.

(c) The administrative burden on entities covered under the cap.

(d) The impacts on electricity prices for consumers.

(e) The specific benefits to the state’s economy for early adoption of a cap-and-trade system for greenhouse gases in the context of federal climate change legislation and the development of new international compacts.

(f) The specific benefits to the state’s economy associated with the creation and sale of emissions offsets from economic sectors outside of the emissions cap.

(g) The potential effects on leakage if economic activity relocates out of the state.

(h) The effectiveness of the combination of measures in meeting identified targets.

(i) The economic implications for near-term periods of short-term and long-term targets specified in the overall policy.

(j) The overall costs and benefits of a cap-and-trade system to the economy of the state.

(k) The impacts on low-income consumers that result from energy price increases.

(l) The consistency of the program with other state and possible federal efforts.

(m) The evaluation of the conditions under which the state should consider linking its trading system to the systems of other states or other countries and how that might be affected by the potential inclusion in the rule of a safety valve.
(n) The timing and changes in the external environment, such as proposals by other states or implementation of a federal program that would spur reevaluation of the Florida program.

(o) The conditions and options for eliminating the Florida program if a federal program were to supplant it.

(p) The need for a regular reevaluation of the progress of other emitting regions of the country and of the world, and whether other regions are abating emissions in a commensurate manner.

(q) The desirability of and possibilities of broadening the scope of the state's cap-and-trade system at a later date to include more emitting activities as well as sinks in Florida, the conditions that would need to be met to do so, and how the program would encourage these conditions to be met, including developing monitoring and measuring techniques for land use emissions and sinks, regulating sources upstream, and other considerations.

Section 66. Section 403.502, Florida Statutes, is amended to read:

403.502 Legislative intent.--The Legislature finds that the present and predicted growth in electric power demands in this state requires the development of a procedure for the selection and utilization of sites for electrical generating facilities and the identification of a state position with respect to each proposed site and its associated facilities. The Legislature recognizes that the selection of sites and the routing of associated facilities, including transmission lines, will have a significant impact upon the welfare of the population, the location and growth of industry, and the use of the natural resources of the state. The Legislature finds that the efficiency of the permit application and review process at both the state and local level would be improved with the implementation of a process whereby a permit application would be centrally coordinated and all permit decisions could be reviewed on the basis of standards and recommendations of the deciding agencies. It is the policy of this state that, while recognizing the pressing need for increased power generation facilities, the state shall ensure through available and reasonable methods that the location and operation of electrical power plants will produce minimal adverse effects on human health, the environment, the ecology of the land and its wildlife, and the ecology of state waters and their aquatic life and will not unduly conflict with the goals established by the applicable local comprehensive plans. It is the intent to seek courses of action that will fully balance the increasing demands for electrical power plant location and operation with the broad interests of the public. Such action will be based on these premises:

1. To assure the citizens of Florida that operation safeguards are technically sufficient for their welfare and protection.

2. To effect a reasonable balance between the need for the facility and the environmental impact resulting from construction and operation of the facility, including air and water quality, fish and wildlife, and the water resources and other natural resources of the state.
(3) To meet the need for electrical energy as established pursuant to s. 403.519.

(4) To assure the citizens of Florida that renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available.

Section 67. Subsections (3) through (30) of section 403.503, Florida Statutes, are renumbered as subsections (4) through (31), respectively, present subsections (6), (8), (10), (13), (27), and (29) are amended, and a new subsection (3) is added to that section, to read:

403.503 Definitions relating to Florida Electrical Power Plant Siting Act.—As used in this act:

(3) "Alternate corridor" means an area that is proposed by the applicant or a third party within which all or part of an associated electrical transmission line right-of-way is to be located and that is different from the preferred transmission line corridor proposed by the applicant. The width of the alternate corridor proposed for certification for an associated electrical transmission line may be the width of the proposed right-of-way or a wider boundary not to exceed a width of 1 mile. The area within the alternate corridor may be further restricted as a condition of certification. The alternate corridor may include alternate electrical substation sites if the applicant has proposed an electrical substation as part of the portion of the proposed electrical transmission line.

(7) "Associated facilities" means, for the purpose of certification, those onsite and offsite facilities which directly support the construction and operation of the electrical power plant such as electrical transmission lines, substations, and fuel unloading facilities; pipelines necessary for transporting fuel for the operation of the facility or other fuel transportation facilities; water or wastewater transport pipelines; construction, maintenance, and access roads; and railway lines necessary for transport of construction equipment or fuel for the operation of the facility.

"Certification" means the written order of the board, or secretary when applicable, approving an application for the licensing of an electrical power plant, in whole or with such changes or conditions as the board may deem appropriate.

"Corridor" means the proposed area within which an associated linear facility right-of-way is to be located. The width of the corridor proposed for certification as an associated facility, at the option of the applicant, may be the width of the right-of-way or a wider boundary, not to exceed a width of 1 mile. The area within the corridor in which a right-of-way may be located may be further restricted by a condition of certification. After all property interests required for the right-of-way have been acquired by the licensee, the boundaries of the area certified shall narrow to only that land within the boundaries of the right-of-way. The corridors proper for certification shall be those addressed in the application, in amendments to the application filed under s. 403.5064, and in notices of acceptance of proposed alternate corridors filed by an applicant and the department pursuant to s. 403.5271 as incorporated by reference in s. 403.5064(1)(b) for which the
required information for the preparation of agency supplemental
4225
reports was filed.
4226
(4) "Electrical power plant" means, for the purpose
4227
of certification, any steam or solar electrical generating
4228
facility using any process or fuel, including nuclear materials,
4229
except that this term does not include any steam or solar
4230
electrical generating facility of less than 75 megawatts in
4231
capacity unless the applicant for such a facility elects to
4232
apply for certification under this act. This term also includes
4233
the site; all associated facilities that will be owned by the
4234
applicant; and associated facilities that are physically connected to the electrical
4235
power plant site; all associated facilities that are indirectly connected to the electrical power plant site;
4236
and associated transmission lines that will be owned by the applicant and associated transmission lines that will be owned by the applicant which connect the electrical power plant to an existing transmission network or rights-of-way to which the applicant intends to connect. At the applicant's option, this term may include any offsite associated facilities that will not be owned by the applicant; offsite associated facilities that are owned by the applicant but that are not indirectly connected to the electrical power plant site; any proposed terminal or intermediate substations or substation expansions connected to the associated transmission line; or new transmission lines, upgrades, or improvements of an existing transmission line on any portion of the applicant's electrical transmission system necessary to support the
4251
generation injected into the system from the proposed electrical
4252
power plant.
4253
(28) "Site" means any proposed location within which
4254
will be located an electrical power plant's generating
4255
facility and onsite support facilities, or an electrical power plant alteration or addition of electrical generating facilities and onsite support facilities resulting in an increase in generating capacity, will be located, including offshore sites within state jurisdiction.
4260
(30) "Ultimate site capacity" means the maximum gross
4261
generating capacity for a site as certified by the board, unless otherwise specified as net generating capacity.
4262
Section 68. Subsections (2) through (5), (9), and (11) of section 403.504, Florida Statutes, are amended to read:
4266
403.504 Department of Environmental Protection; powers and duties enumerated.--The department shall have the following powers and duties in relation to this act:
4268
(2) To prescribe the form and content of the public notices and the notice of intent and the form, content, and necessary supporting documentation and studies to be prepared by the applicant for electrical power plant site certification applications.
4272
(3) To receive applications for electrical power plant site certifications and to determine the completeness and sufficiency thereof.
4276
(4) To make, or contract for, studies of electrical power plant site certification applications.
(5) To administer the processing of applications for
electric power plant site certifications and to ensure that the
applications are processed as expeditiously as possible.
(9) To determine whether an alternate corridor proposed
for consideration under s. 403.5064(4) is acceptable final
orders after receipt of the administrative law judge's order
relinquishing jurisdiction pursuant to s. 403.506(6).
(11) To administer and manage the terms and conditions of
the certification order and supporting documents and records for
the life of the electrical power plant facility.
Section 69. Subsection (1) of section 403.506, Florida
Statutes, is amended, and subsection (3) is added that section,
to read:
403.506 Applicability, thresholds, and certification.--
(1) The provisions of this act shall apply to any
electrical power plant as defined herein, except that the
provisions of this act shall not apply to any electrical power
plant or steam-generating plant of less than 75 megawatts in
gross capacity, including its associated facilities, or to any
substation to be constructed as part of an associated
transmission-line unless the applicant has elected to apply for
certification of such electrical power plant or substation under
this act. The provisions of this act shall not apply to any unit
capacity expansions expansion of 75 or megawatts or less, in the
aggregate, of an existing exothermic reaction cogeneration
electrical generating facility unit that was exempt from this
act when it was originally built; however, this exemption shall
not apply if the unit uses oil or natural gas for purposes other
than unit startup. No construction of any new electrical power
plant or expansion in steam generating capacity as measured by
an increase in the maximum electrical generator rating of any
existing electrical power plant may be undertaken after October
1, 1973, without first obtaining certification in the manner as
herein provided, except that this act shall not apply to any
such electrical power plant which is presently operating or
under construction or which has, upon the effective date of
chapter 73-33, Laws of Florida, applied for a permit or
certification under requirements in force prior to the effective
date of such act.
(3) An electric utility may obtain separate licenses,
permits, and approvals for the construction of facilities
necessary to construct an electrical power plant without first
obtaining certification under this act if the utility intends to
locate, license, and construct a proposed or expanded electrical
power plant that uses nuclear materials as fuel. Such facilities
may include, but are not limited to, access and onsite roads,
rail lines, electrical transmission facilities to support
construction, and facilities necessary for waterborne delivery
of construction materials and project components. This exemption
applies to such facilities regardless of whether the facilities
are used for operation of the power plant. The applicant shall
file with the department a statement that declares that the
construction of such facilities is necessary for the timely
construction of the proposed electrical power plant and
identifies those facilities that the applicant intends to seek
licenses for and construct prior to or separate from
certification of the project. The facilities may be located
within or off the site for the proposed electrical power plant.
The filing of an application under this act shall not affect
other applications for separate licenses which are pending at
the time of filing the application. Furthermore, the filing of
an application shall not prevent an electric utility from
seeking separate licenses for facilities that are necessary to
construct the electrical power plant. Licenses, permits, or
approvals issued by any state, regional, or local agency for
such facilities shall be incorporated by the department into a
final certification upon completion of construction. Any
facilities necessary for construction of the electrical power
plant shall become part of the certified electrical power plant
upon completion of the electrical power plant's construction.
The exemption in this subsection shall not require or authorize
agency rulemaking, and any action taken under this subsection
shall not be subject to the provisions of chapter 120. This
subsection shall be given retroactive effect and shall apply to
applications filed after May 1, 2008.

Section 70. Subsections (1) and (4) of section 403.5064,
Florida Statutes, are amended to read:
403.5064 Application; schedules.--
(1) The formal date of filing of a certification
application and commencement of the certification review process
shall be when the applicant submits:
(a) Copies of the certification application in a quantity
and format as prescribed by rule to the department and other
agencies identified in s. 403.507(2)(a).
(b) A statement affirming that the applicant is opting to
allow consideration of alternate corridors for an associated
transmission line corridor. If alternate corridors are allowed,
at the applicant's option, the portion of the application
addressing associated transmission line corridors shall be
processed under the schedule set forth in ss. 403.521-403.526,
403.527(4), and 403.5271, including the opportunity for the
filing of alternate corridors by third parties; however, if such
alternate corridors are filed, the certification hearing shall
not be rescheduled as allowed by s. 403.5271(1)(b).
(c) The application fee specified under s. 403.518 to
the department.
(4) Within 7 days after the filing of an application, the
department shall prepare a proposed schedule of dates for
determination of completeness, submission of statements of
issues, submittal of final reports, and other significant dates
to be followed during the certification process, including dates
for filing notices of appearance to be a party pursuant to s.
403.508(3). If the application includes one or more associated
transmission line corridors, at the request of the applicant
filed concurrently with the application, the department shall
use the application processing schedule set forth in ss.
403.521, 403.526, 403.527(4), and 403.5271 for the associated
transmission line corridors, including the opportunity for the
filing and review of alternate corridors, if a party proposes
alternate transmission line corridor routes for consideration no
later than 165 days before the scheduled certification hearing.
Notwithstanding an applicant's option for the transmission line
CREDIT: Words stricken are deletions; words underlined are additions.
Section 72. Subsection (3) of section 403.50663, Florida Statutes, is amended to read:

4391 proposed schedule, only one certification hearing shall be held
4392 for the entire plant in accordance with s. 403.508(2). The
4393 proposed schedule shall be timely provided by the
4394 department to the applicant, the administrative law judge, all
4395 agencies identified pursuant to subsection (2), and all parties.
4396 Within 7 days after the filing of the proposed schedule, the
4397 administrative law judge shall issue an order establishing a
4398 schedule for the matters addressed in the department’s proposed
4399 schedule and other appropriate matters, if any.

4400 Section 71. Subsection (1) of section 403.5065, Florida
4401 Statutes, is amended to read:

4402 403.5065 Appointment of administrative law judge; powers
4403 and duties.--

4404 (1) Within 7 days after receipt of an application, the
4405 department shall request the Division of Administrative Hearings
4406 to designate an administrative law judge to conduct the hearings
4407 required by this act. The division director shall designate an
4408 administrative law judge within 7 days after receipt of the
4409 request from the department. In designating an administrative
4410 law judge for this purpose, the division director shall,
4411 whenever practicable, assign an administrative law judge who has
4412 had prior experience or training in electrical power plant site
4413 certification proceedings. Upon being advised that an
4414 administrative law judge has been appointed, the department
4415 shall immediately file a copy of the application and all
4416 supporting documents with the designated administrative law
4417 judge, who shall docket the application.
associated facilities that are not exempt from the requirements
of land use plans and zoning ordinances under chapter 163 and s.
380.04(3), with existing land use plans and zoning ordinances
that were in effect on the date the application was filed, based
on the information provided in the application. However, this
requirement does not apply to any new electrical generation unit
proposed to be constructed and operated on the site of a
previously certified electrical power plant or on the site of a
power plant that was not previously certified that will be
wholly contained within the boundaries of the existing site.
(b) The local government may issue its determination up to
96 days later if the application has been determined
incomplete based in whole or in part upon a local government
request for requested additional information on land use and
zoning consistency as part of the local government's statement
on completeness of the application submitted pursuant to s.
403.506(1)(a). Incompleteness of information necessary for a
local government to evaluate an application may be claimed by
the local government as cause for a statement of inconsistency
with existing land use plans and zoning ordinances.
(c) Notice of the consistency determination shall be
published in accordance with the requirements of s. 403.5115.
(2)(a) If the local government issues a determination that
the proposed site and any nonexempt associated facilities are
electrical power plant is not consistent or in compliance with
local land use plans and zoning ordinances, the applicant may
apply to the local government for the necessary local approval
to address the inconsistencies identified in the local
government's determination.
(b) If the applicant makes such an application to the
local government, the time schedules under this act shall be
tolled until the local government issues its revised
determination on land use and zoning or the applicant otherwise
withdraws its application to the local government.
(c) If the applicant applies to the local government for
necessary local land use or zoning approval, the local
government shall commence a proceeding to consider the
application for land use or zoning approval within 45 days after
receipt of the complete request and shall issue a revised
determination within 30 days following the conclusion of that
proceeding. The time schedules and notice
requirements under this act shall apply to such revised
determination.
(4) If any substantially affected person wishes to dispute
the local government's determination, he or she shall file a
petition with the designated administrative law judge department
within 21 days after the publication of notice of the local
government's determination. If a hearing is requested, the
provisions of s. 403.508(1) shall apply.
(5) The dates in this section may be altered upon
agreement between the applicant, the local government, and the
department pursuant to s. 403.5095.
(6) If it is determined by the local government that the
proposed site or nonexempt directly associated facility does
conform with existing land use plans and zoning ordinances in
effect as of the date of the application and no petition has
been filed, the responsible zoning or planning authority shall
not thereafter change such land use plans or zoning ordinances
so as to foreclose construction and operation of the proposed
site or directly associated facilities unless certification is
subsequently denied or withdrawn.

(7) The issue of land use and zoning consistency for any
proposed alternate intermediate electrical substation which is
proposed as part of an alternate electrical transmission line
corridor which is accepted by the applicant and the department
under s. 403.5271(1)(b) shall be addressed in the supplementary
report prepared by the local government on the proposed
alternate corridor and shall be considered as an issue at any
final certification hearing. If such a proposed alternate
intermediate electrical substation is determined not to be
consistent with local land use plans and zoning ordinances, then
that alternate intermediate electrical substation shall not be
certified.

Section 74. Paragraph (a) of subsection (2) of section
403.507, Florida Statutes, is amended to read:

403.507 Preliminary statements of issues, reports, project
analyses, and studies.--

(2) (a) No later than 100 days after the certification
application has been determined complete, the following agencies
shall prepare reports as provided below and shall submit them to
the department and the applicant, unless a final order denying
the determination of need has been issued under s. 403.512:

1. The Department of Community Affairs shall prepare a
report containing recommendations which address the impact upon
the public of the proposed electrical power plant, based on the
degree to which the electrical power plant is consistent with
the applicable portions of the state comprehensive plan,
emergency management, and other such matters within its
jurisdiction. The Department of Community Affairs may also
comment on the consistency of the proposed electrical power
plant with applicable strategic regional policy plans or local
comprehensive plans and land development regulations.

2. The water management district shall prepare a report as to
matters within its jurisdiction, including but not limited
to, the impact of the proposed electrical power plant on water
resources, regional water supply planning, and district-owned
lands and works.

3. Each local government in whose jurisdiction the
proposed electrical power plant is to be located shall prepare a
report as to the consistency of the proposed electrical power
plant with all applicable local ordinances, regulations,
standards, or criteria that apply to the proposed electrical
power plant, including any applicable local environmental
regulations adopted pursuant to s. 403.182 or by other means.

4. The Fish and Wildlife Conservation Commission shall
prepare a report as to matters within its jurisdiction.

5. Each regional planning council shall prepare a report
containing recommendations that address the impact upon the
public of the proposed electrical power plant, based on the
degree to which the electrical power plant is consistent with

Page 163 of 237
the applicable provisions of the strategic regional policy plan
adopted pursuant to chapter 186 and other matters within its
jurisdiction.

6. The Department of Transportation shall address the
impact of the proposed electrical power plant on matters within
its jurisdiction.

Section 75. Subsection (1), paragraph (a) of subsection
(2), and paragraph (f) of subsection (3) of section 403.508,
Florida Statutes, are amended to read:

403.508 Land use and certification hearings, parties,
participants.--

(1)(a) Within 5 days after the filing of a petition for
a hearing on land use has been filed pursuant to s. 403.50665,
the designated administrative law judge shall schedule conduct a
land use hearing to be conducted in the county of the proposed
site or directly associated facility that is not exempt from the
requirements of land use plans and zoning ordinances under
chapter 163 and s. 380.04(3), as applicable, as expeditiously as
possible, but not later than 30 days after the designated
administrative law judge's department's receipt of the petition.
The place of such hearing shall be as close as possible to the
proposed site or directly associated facility. If a petition is
filed, the hearing shall be held regardless of the status of the
completeness of the application. However, incompletion of
information necessary for a local government to evaluate an
application may be claimed by the local government as cause for
a statement of inconsistency with existing land use plans and
zoning ordinances under s. 403.50665.

Page 165 of 237

CODING: Words stricken are deletions; words underlined are additions. hb7135-03-er
facilities unless certification is subsequently denied or
withdrawn.

(f) If it is determined by the board that the proposed
site or nonexempt associated facility does not conform with
existing land use plans and zoning ordinances, the board may, if
it determines after notice and hearing and upon consideration of
the recommended order on land use and zoning issues that it is
in the public interest to authorize the use of the land on a
site for a site or associated facility on electrical power
plant, authorize a variance or other necessary approval to the
adopted land use plan and zoning ordinances required to render
the proposed site or associated facility consistent with local
land use plans and zoning ordinances. The board's action shall
not be controlled by any other procedural requirements of law.

In the event a variance or other approval is denied by the
board, it shall be the responsibility of the applicant to make
the necessary application for any approvals determined by the
board as required to make the proposed site or associated
facility consistent and in compliance with local land use plans
and zoning ordinances. No further action may be taken on the
complete application until the proposed site or associated
facility conforms to the adopted land use plan or zoning
ordinances or the board grants relief as provided under this
act.

(2)(a) A certification hearing shall be held by the
designated administrative law judge no later than 265 days after
the application is filed with the department. The certification
hearing shall be held at a location in proximity to the proposed
site. At the conclusion of the certification hearing, the
designated administrative law judge shall, after consideration
of all evidence of record, submit to the board a recommended
order no later than 45 days after the filing of the hearing
transcript.

(f) Any agency, including those whose properties or works
are being affected pursuant to s. 403.509(5), shall be made a
party upon the request of the department or the applicant.

Section 76. Subsection (3) of section 403.509, Florida
Statutes, is amended, subsection (4) is renumbered as subsection
(5), a new subsection (4) is added to that section, and
subsection (5) is renumbered as subsection (6) and amended, to
read:

403.509 Final disposition of application.--

(3) In determining whether an application should be
approved in whole, approved with modifications or conditions, or
denied, the board, or secretary when applicable, shall consider
whether, and the extent to which, the location, construction,
and operation of the electrical power plant and directly
associated facilities and their construction and operation will:

(a) Provide reasonable assurance that operational
safeguards are technically sufficient for the public welfare and
protection.

(b) Comply with applicable nonprocedural requirements of
agencies.

(c) Be consistent with applicable local government
comprehensive plans and land development regulations.
(d) Meet the electrical energy needs of the state in an orderly, reliable, and timely fashion.

(e) Effect a reasonable balance between the need for the facility as established pursuant to s. 403.519 and the impacts upon air and water quality, fish and wildlife, water resources, and other natural resources of the state resulting from the construction and operation of the facility.

(f) Minimize, through the use of reasonable and available methods, the adverse effects on human health, the environment, and the ecology of the land and its wildlife and the ecology of state waters and their aquatic life.

(g) Serve and protect the broad interests of the public.

(4)(a) Any transmission line corridor certified by the board, or secretary, shall meet the criteria of this section. When more than one transmission line corridor is proper for certification under s. 403.501(11) and meets the criteria of this section, the board, or secretary, shall certify the transmission line corridor that has the least adverse impact regarding the criteria in subsection (3), including costs.

(b) If the board, or secretary, finds that an alternate corridor rejected pursuant to s. 403.5271 as incorporated by reference in s. 403.504(1)(b) meets the criteria of subsection (3) and has the least adverse impact regarding the criteria in subsection (3), the board, or secretary, shall deny certification or shall allow the applicant to submit an amended application to include the corridor.

(c) If the board, or secretary, finds that two or more of the corridors that comply with subsection (3) have the least adverse impacts regarding the criteria in subsection (3), including costs, and that the corridors are substantially equal in adverse impacts regarding the criteria in subsection (3), including costs, the board, or secretary, shall certify the corridor preferred by the applicant if the corridor is one proper for certification under s. 403.503(11).

[6] For certifications issued by the board, in regard to the properties and works of any agency which is a party to the certification hearing, the board shall have the authority to decide issues relating to the use, the connection thereto, or the crossing thereof, for the electrical power plant and directly associated facilities and to direct any such agency to execute, within 30 days after the entry of certification, the necessary license or easement for such use, connection, or crossing, subject only to the conditions set forth in such certification. For certifications issued by the department in regard to the properties and works of any agency that is a party to the proceeding, any stipulation filed pursuant to s. 403.508(6)(a) must include a stipulation regarding any issues relating to the use, the connection thereto, or the crossing thereof, for the electrical power plant. Any agency stipulating to the use of, connection to, or crossing of its property must agree to execute, within 30 days after the entry of certification, the necessary license or easement for such use, connection, or crossing, subject only to the conditions set forth in such certification.
connection, or crossing, subject only to the conditions set forth in such certification.

Section 77. Subsections (1) and (6) of section 403.511, Florida Statutes, are amended to read:

403.511 Effect of certification.--

(1) Subject to the conditions set forth therein, any certification shall constitute the sole license of the state and any agency as to the approval of the location of the site and any associated facility and the construction and operation of the proposed electrical power plant, except for the issuance of department licenses required under any federally delegated or approved permit program and except as otherwise provided in subsection (4).

(6) No term or condition of an electrical power plant a site certification shall be interpreted to supersede or control the provisions of a final operation permit for a major source of air pollution issued by the department pursuant to s. 403.0872 to a facility certified under this part.

Section 78. Subsection (1) of section 403.5112, Florida Statutes, is amended to read:

403.5112 Filing of notice of certified corridor route.--

(1) Within 60 days after certification of an e-dielectrically associated linear facility pursuant to this act, the applicant shall file, in accordance with s. 20.222, with the department and the clerk of the circuit court for each county through which the corridor will pass, a notice of the certified route.

Section 79. Section 403.5113, Florida Statutes, is amended to read:

403.5113 Postcertification amendments and review.--

(1) POSTCERTIFICATION AMENDMENTS.--

(a) If, subsequent to certification by the board, a licensee proposes any material change to the application and revisions or amendments thereto, as certified, the licensee shall submit a written request for amendment and a description of the proposed change to the application to the department.

Within 30 days after the receipt of the request for the amendment, the department shall determine whether the proposed change to the application requires a modification of the conditions of certification.

(b) If the department concludes that the change would not require a modification of the conditions of certification, the department shall provide written notification of the approval of the proposed amendment to the licensee, all agencies, and all other parties.

(c) If the department concludes that the change would require a modification of the conditions of certification, the department shall provide written notification to the licensee that the proposed change to the application requires a request for modification pursuant to s. 403.516.

(2) POSTCERTIFICATION REVIEW.--Postcertification submittals filed by the licensee with one or more agencies are for the purpose of monitoring for compliance with the issued certification and must be reviewed by the agencies on an expedited and priority basis because each facility certified under this act is a critical infrastructure facility. In no event shall a postcertification review be completed in more than
90 days after complete information is submitted to the reviewing agencies.  

Section 80. Section 403.5115, Florida Statutes, is amended to read:  

403.5115 Public notice.--  

(1) The following notices are to be published by the applicant for all applications:  

(a) Notice of the filing of a notice of intent under s. 403.5063, which shall be published within 21 days after the filing of the notice. The notice shall be published as specified by subsection (2), except that the newspaper notice shall be one-fourth page in size in a standard size newspaper or one-half page in size in a tabloid size newspaper.  

(b) Notice of filing of the application, which shall include a description of the proceedings required by this act, within 21 days after the date of the application filing. Such notice shall give notice of the provisions of s. 403.511(1) and (2).  

(c) If applicable, notice of the land use determination made pursuant to s. 403.50665(2) within 21 days after the deadline for filing the determination is fixed.  

(d) If applicable, notice of the land use hearing, which shall be published as specified in subsection (2), no later than 15 days before the hearing.  

(e) Notice of the certification hearing and notice of the deadline for filing notice of intent to be a party, which shall be published as specified in subsection (2), at least 65 days before the date set for the certification hearing. If one or more alternate corridors have been accepted for consideration, the notice of the certification hearing shall include a map of all corridors proposed for certification.  

(f) Notice of revised deadline for filing alternate corridors if the certification hearing is rescheduled to a date other than as published in the notice of filing of the application. This notice shall be published at least 185 days before the rescheduled certification hearing and as specified in subsection (2), except no map is required and the size of the notice shall be no smaller than 6 square inches.  

(g) Notice of the cancellation of the certification hearing, if applicable, no later than 3 days before the date of the originally scheduled certification hearing. The newspaper notice shall be one-fourth page in size in a standard-size newspaper or one-half page in size in a tabloid-size newspaper.  

(h) Notice of modification when required by the department, based on whether the requested modification of certification will significantly increase impacts to the environment or the public. Such notice shall be published as specified under subsection (2):  

1. Within 21 days after receipt of a request for modification. The newspaper notice shall be of a size as directed by the department commensurate with the scope of the modification.  

2. If a hearing is to be conducted in response to the request for modification, then notice shall be published no later than 30 days before the hearing.
(h) Notice of a supplemental application, which shall be published as specified in paragraphs (b) and subsection (g) in newspapers of general circulation within the county or counties in which the proposed electrical power plant will be located. The newspaper notices, unless otherwise specified, shall be at least one-half page in size in a standard size newspaper or a full page in a tabloid size newspaper. These notices shall include a map generally depicting the project and all associated facilities corridors. A newspaper of general circulation shall be the newspaper which has the largest daily circulation in that county and has its principal office in that county. If the newspaper with the largest daily circulation has its principal office outside the county, the notices shall appear in both the newspaper having the largest circulation in that county and in a newspaper authorized to publish legal notices in that county.

(3) All notices published by the applicant shall be paid for by the applicant and shall be in addition to the application fee.

(4) The department shall arrange for publication of the following notices in the manner specified by chapter 120 and provide copies of those notices to any persons who have requested to be placed on the departmental mailing list for this purpose:

(a) Notice of the filing of the notice of intent within 15 days after receipt of the notice.

(b) Notice of the filing of the application, no later than 21 days after the application filing.

(c) Notice of the land use determination made pursuant to s. 403.9065(2) within 21 days after the determination is filed.

(d) Notice of the land use hearing before the administrative law judge, if applicable, no later than 15 days before the hearing.

(e) Notice of the land use hearing before the board, if applicable.

(f) Notice of the certification hearing at least 45 days before the date set for the certification hearing.

(g) Notice of the revised deadline for filing alternate corridors if the certification hearing is rescheduled to a date other than as published in the notice of filing of the application. This notice shall be published at least 185 days before the rescheduled certification hearing.

(h) Notice of the cancellation of the certification hearing, if applicable, no later than 3 days prior to the date of the originally scheduled certification hearing.

(i) Notice of the hearing before the board, if applicable.

(j) Notice of stipulations, proposed agency action, or petitions for modification.

(5) A local government or regional planning council that proposes to conduct an informational public meeting pursuant to...
s. 403.50663 must publish notice of the meeting in a newspaper of general circulation within the county or counties in which the proposed electrical power plant will be located no later than 7 days prior to the meeting. A newspaper of general circulation shall be the newspaper that has the largest daily circulation in that county and has its principal office in that county. If the newspaper with the largest daily circulation has its principal office outside the county, the notices shall appear in both the newspaper having the largest circulation in that county and in a newspaper authorized to publish legal notices in that county.

(6)(a) A good faith effort shall be made by the applicant to provide direct written notice of the filing of an application for certification by United States mail or hand delivery no later than 45 days after filing of the application to all landowners whose property, as noted in the most recent local government tax records, and residences are located within the following distances of the proposed project:

1. Three miles of the proposed main site boundaries of the proposed electrical power plant.
2. One-quarter mile for a transmission line corridor that only includes a transmission line as defined by s. 403.522(22).
3. One-quarter mile for all other linear associated facilities extending away from the main site boundary except for a transmission line corridor that includes a transmission line that operates below those defined by s. 403.522(22).

(b) No later than 60 days from the filing of an application for certification, the applicant shall file a list with the department's Siting Coordination Office of landowners and residences that were notified.

7(a) A good faith effort shall be made by the proponent of an alternate corridor that includes a transmission line, as defined by s. 403.522(22), to provide direct written notice of the filing of an alternate corridor for certification by United States mail or hand delivery of the filing of no later than 30 days after filing of the alternate corridor to all landowners whose property, as noted in the most recent local government tax records, and residences, are located within one-quarter mile of the proposed boundaries of a transmission line corridor that includes a transmission line as defined by s. 403.522(22).
2. Such modification may be made without further notice if the matter has been previously noticed under the requirements for any federally delegated or approved permit program.

Section 82. Paragraphs (a) and (c) of subsection (1) of section 403.517, Florida Statutes, are amended to read:

403.517 Supplemental applications for sites certified for ultimate site capacity.--

(1) (a) Supplemental applications may be submitted for certification of the construction and operation of electrical power plants to be located at sites which have been previously certified for an ultimate site capacity pursuant to this act. Supplemental applications shall be limited to electrical power plants using the fuel type previously certified for that site. Such applications shall include all new directly associated facilities that support the construction and operation of the electrical power plant.

(c) The time limits for the processing of a complete supplemental application shall be designated by the department commensurate with the scope of the supplemental application, but shall not exceed any time limitation governing the review of initial applications for certification pursuant to this act, it being the legislative intent to provide shorter time limitations for the processing of supplemental applications for electrical power plants to be constructed and operated at sites which have been previously certified for an ultimate site capacity.

Section 83. Subsections (1), (2), and (3) of section 403.5175, Florida Statutes, are amended to read:

403.5175 Existing electrical power plant site certification.--

(1) An electric utility that owns or operates an existing electrical power plant as defined in s. 403.503(14) may apply for certification of an existing power plant and its site in order to obtain all agency licenses necessary to ensure compliance with federal or state environmental laws and regulations using the centrally coordinated, one-stop licensing process established by this part. An application for site certification under this section must be in the form prescribed by department rule. Applications must be reviewed and processed using the same procedural steps and notices as for an application for a new facility, except that a determination of need by the Public Service Commission is not required.

(2) An application for certification under this section must include:

(a) A description of the site and existing power plant installations and associated facilities;

(b) A description of all proposed changes or alterations to the site and electrical power plant, including all new associated facilities that are the subject of the application;

(c) A description of the environmental and other impacts caused by the existing utilization of the site and directly associated facilities, and the operation of the electrical power plant that is the subject of the application, and of the environmental and other benefits, if any, to be realized as a result of the proposed changes or alterations if certification is approved and such other information as is necessary for the...
reviewing agencies to evaluate the proposed changes and the
expected impacts;
(d) The justification for the proposed changes or
alterations;
(e) Copies of all existing permits, licenses, and
compliance plans authorizing utilization of the site and
directly associated facilities or operation of the electrical
power plant that is the subject of the application.
(3) The land use and zoning determination requirements of
s. 403.50665 do not apply to an application under this section
if the applicant does not propose to expand the boundaries of
the existing site or to add additional offsite associated
facilities that are not exempt from the provisions of s.
403.50665. If the applicant proposes to expand the boundaries of
the existing site or to add additional offsite associated
facilities that are not exempt from the provisions of s.
403.50665 to accommodate portions of the electrical generating
facilities or associated facilities, a land use and zoning
determination shall be made as specified in s. 403.50665;
provided, however, that the sole issue for determination is
whether the proposed site expansion or additional nonexempt
associated facilities are consistent and in compliance with
the existing land use plans and zoning ordinances.
Section 84. Section 403.518, Florida Statutes, is amended
to read:
403.518 Fees; disposition.--The department shall charge
the applicant the following fees, as appropriate, which, unless
otherwise specified, shall be paid into the Florida Permit Fee
Trust Fund:
(1) A fee for a notice of intent pursuant to s. 403.5063,
in the amount of $2,500, to be submitted to the department at
the time of filing of a notice of intent. The notice-of-intent
fee shall be used and disbursed in the same manner as the
application fee.
(2) An application fee, which shall not exceed $200,000.
The fee shall be fixed by rule on a sliding scale related to the
size, type, ultimate site capacity, or increase in electrical
generating capacity proposed by the application.
(a) Sixty percent of the fee shall go to the department to
cover any costs associated with coordinating the review and
acting upon the application, to cover any field services
associated with monitoring construction and operation of the
facility, and to cover the costs of the public notices published
by the department.
(b) The following percentages shall be transferred to the
Operating Trust Fund of the Division of Administrative Hearings
of the Department of Management Services:
1. Five percent to compensate expenses from the initial
exercise of duties associated with the filing of an application.
2. An additional 5 percent if a land use hearing is held
pursuant to s. 403.508.
3. An additional 10 percent if a certification hearing is
held pursuant to s. 403.508.
(c) Upon written request with proper itemized accounting
within 90 days after final agency action by the board or
department or withdrawal of the application, the agencies that
prepared reports pursuant to s. 403.507 or participated in a
hearing pursuant to s. 403.508 may submit a written request to
the department for reimbursement of expenses incurred during the
certification proceedings. The request shall contain an
accounting of expenses incurred which may include time spent
reviewing the application, preparation of any studies required
of the agencies by this act, agency travel and per diem to
attend any hearing held pursuant to this act, and for any agency
or local government’s or regional planning council’s provision
of notice of public meetings or hearings required as a result of
the application for certification. The department shall review
the request and verify that the expenses are valid. Valid
expenses shall be reimbursed; however, in the event the amount
of funds available for reimbursement is insufficient to provide
for full compensation to the agencies requesting reimbursement,
reimbursement shall be on a prorated basis.

2. If the application review is held in abeyance for more
than 1 year, the agencies may submit a request for
reimbursement. This time period shall be measured from the date
the applicant has provided written notification to the
department that it desires to have the application review
process placed on hold. The fee disbursement shall be processed
in accordance with subparagraph 1.

(d) If any sums are remaining, the department shall retain
them for its use in the same manner as is otherwise authorized
by this act; provided, however, that if the certification
application is withdrawn, the remaining sums shall be refunded
to the applicant within 90 days after the submittal of the
written notification of withdrawal.

(3)(a) A certification modification fee, which shall not
exceed $30,000. The department shall establish rules for
determining such a fee based on the number of agencies involved
in the review, equipment redesign, change in size, type,
increase in generating capacity proposed, or change in an
associated 

(b) The fee shall be submitted to the department with a
petition for modification pursuant to s. 403.516. This fee shall
be established, disbursed, and processed in the same manner as
the application fee in subsection (2), except that the Division
of Administrative Hearings shall not receive a portion of the
fee unless the petition for certification modification is
referred to the Division of Administrative Hearings for hearing.
If the petition is so referred, only $10,000 of the fee shall be
transferred to the Operating Trust Fund of the Division of
Administrative Hearings of the Department of Management
Services.

(4) A supplemental application fee, not to exceed $75,000,
to cover all reasonable expenses and costs of the review,
processing, and proceedings of a supplemental application. This
fee shall be established, disbursed, and processed in the same
manner as the certification application fee in subsection (2).

(5) An existing 

CODING: Words stricken are deletions; words underlined are additions.
established, disbursed, and processed in the same manner as the
certification application fee in subsection (2).

(6) An application fee for an alternate corridor filed
pursuant to s. 403.5064(4). The application fee shall be $750
per mile for each mile of the alternate corridor located within
an existing electric transmission line right-of-way or within an
existing right-of-way for a road, highway, railroad, or other
aboveground linear facility, or $1,000 per mile for each mile of
an electric transmission line corridor proposed to be located
outside the existing right-of-way.

Section 85. Paragraphs (a) and (e) of subsection (4) of
section 403.519, Florida Statutes, are amended to read:

403.519 Exclusive forum for determination of need.--

(4) In making its determination on a proposed electrical
power plant using nuclear materials or synthesis gas produced by
integrated gasification combined cycle power plant as fuel, the
commission shall hold a hearing within 90 days after the filing
of the petition to determine need and shall issue an order
granting or denying the petition within 135 days after the date
of the filing of the petition. The commission shall be the sole
forum for the determination of this matter and the issues
addressed in the petition, which accordingly shall not be
reviewed in any other forum, or in the review of proceedings in
such other forum. In making its determination to either grant or
deny the petition, the commission shall consider the need for
electric system reliability and integrity, including fuel
diversity, the need for base-load generating capacity, the need
for adequate electricity at a reasonable cost, and whether

renewable energy sources and technologies, as well as
conservation measures, are utilized to the extent reasonably
available.

(a) The applicant's petition shall include:
1. A description of the need for the generation capacity.
2. A description of how the proposed nuclear or integrated
gasification combined cycle power plant will enhance the
reliability of electric power production within the state by
improving the balance of power plant fuel diversity and reducing
Florida's dependence on fuel oil and natural gas.
3. A description of and a nonbinding estimate of the cost
of the nuclear or integrated gasification combined cycle power
plant, including any costs associated with new, expanded, or
relocated electrical transmission lines or facilities of any
size that are necessary to serve the nuclear power plant.
4. The annualized base revenue requirement for the first
12 months of operation of the nuclear or integrated gasification
combined cycle power plant.
5. Information on whether there were any discussions with
any electric utilities regarding ownership of a portion of the
nuclear or integrated gasification combined cycle power plant by
such electric utilities.

(e) After a petition for determination of need for a
nuclear or integrated gasification combined cycle power plant
has been granted, the right of a utility to recover any costs
incurred prior to commercial operation, including, but not
limited to, costs associated with the siting, design, licensing,
or construction of the plant and new, expanded, or relocated
5168 electrical transmission lines or facilities of any size that are
5169 necessary to serve the nuclear power plant, shall not be subject
5170 to challenge unless and only to the extent the commission finds,
5171 based on a preponderance of the evidence adduced at a hearing
5172 before the commission under s. 120.57, that certain costs were
5173 imprudently incurred. Proceeding with the construction of the
5174 nuclear or integrated gasification combined cycle power plant
5175 following an order by the commission approving the need for the
5176 nuclear or integrated gasification combined cycle power plant
5177 under this act shall not constitute or be evidence of
5178 imprudence. Imprudence shall not include any cost increases due
5179 to events beyond the utility's control. Further, a utility's
5180 right to recover costs associated with a nuclear or integrated
5181 gasification combined cycle power plant may not be raised in any
5182 other forum or in the review of proceedings in such other forum.
5183 Costs incurred prior to commercial operation shall be recovered
5184 pursuant to chapter 366.
5185 Section 86. Subsection (1) of section 403.5252, Florida
5186 Statutes, is amended to read:
5187 403.5252 Determination of completeness.--
5188 (1)(a) Within 30 days after the filing distribution of an
5189 application, the affected agencies shall file a statement with
5190 the department containing the recommendations of each agency
5191 concerning the completeness of the application for
5192 certification.
5193 (b) Within 37 days after the filing receipt of the
5194 application completeness statements of each agency, the,
5195 department shall file a statement with the Division of
5196 Administrative Hearings, with the applicant, and with all
5197 parties declaring its position with regard to the completeness
5198 of the application. The statement of the department shall be
5199 based upon its consultation with the affected agencies.
5200 Section 87. Subsection (1) and paragraph (a) of subsection
5201 (2) of section 403.526, Florida Statutes, are amended to read:
5202 403.526 Preliminary statements of issues, reports, and
5203 project analyses; studies.--
5204 (1) Each affected agency that is required to file a report
5205 in accordance with this section shall submit a preliminary
5206 statement of issues to the department and all parties no later
5207 than the submittal of each agency's recommendation that the
5208 application is complete 90 days after the filing of the
5209 application. Such statements of issues shall be made available
5210 to each local government for use as information for public
5211 meetings held under s. 403.5272. The failure to raise an issue
5212 in this preliminary statement of issues does not preclude the
5213 issue from being raised in the agency's report.
5214 (2) (a) No later than 90 days after the filing of the
5215 application, the following agencies shall prepare reports as
5216 provided below, unless a final order denying the determination
5217 of need has been issued under s. 403.537 and shall submit them
5218 to the department and the applicant no later than 90 days after
5219 the filing of the application:
5220 1. The department shall prepare a report as to the impact
5221 of each proposed transmission line or corridor as it relates to
5222 matters within its jurisdiction.
2. Each water management district in the jurisdiction of
which a proposed transmission line or corridor is to be located
shall prepare a report as to the impact on water resources and
other matters within its jurisdiction.

3. The Department of Community Affairs shall prepare a
report containing recommendations which address the impact upon
the public of the proposed transmission line or corridor, based
on the degree to which the proposed transmission line or
corridor is consistent with the applicable portions of the state
comprehensive plan, emergency management, and other matters
within its jurisdiction. The Department of Community Affairs may
also comment on the consistency of the proposed transmission
line or corridor with applicable strategic regional policy plans
or local comprehensive plans and land development regulations.

4. The Fish and Wildlife Conservation Commission shall
prepare a report as to the impact of each proposed transmission
line or corridor on fish and wildlife resources and other
matters within its jurisdiction.

5. Each local government shall prepare a report as to the
impact of each proposed transmission line or corridor on matters
within its jurisdiction, including the consistency of the
proposed transmission line or corridor with all applicable local
ordinances, regulations, standards, or criteria that apply to
the proposed transmission line or corridor, including local
comprehensive plans, zoning regulations, land development
regulations, and any applicable local environmental regulations
adopted pursuant to s. 403.182 or by other means. A change by
the responsible local government or local agency in local

6. Each regional planning council shall present a report
containing recommendations that address the impact upon the
public of the proposed transmission line or corridor based on
the degree to which the transmission line or corridor is
consistent with the applicable provisions of the strategic
regional policy plan adopted under chapter 186 and other impacts
of each proposed transmission line or corridor on matters within
its jurisdiction.

7. The Department of Transportation shall prepare a report
as to the impact of the proposed transmission line or corridor
on state roads, railroads, airports, aeronautics, seaports, and
other matters within its jurisdiction.

8. The commission shall prepare a report containing its
determination under s. 403.937, and the report may include the
comments from the commission with respect to any other subject
within its jurisdiction.

9. Any other agency, if requested by the department, shall
also perform studies or prepare reports as to subjects within
the jurisdiction of the agency which may potentially be affected
by the proposed transmission line.

Section 88. Subsection (4) and paragraph (a) of subsection
(6) of section 403.527, Florida Statutes, are amended to read:
403.527 Certification hearing, parties, participants.--

(4) (a) One public hearing where members of the public who
are not parties to the certification hearing may testify shall
be held in conjunction with the certification hearing within the
boundaries of each county, at the option of any local
government.

(b) Upon the request of the local government, one public
hearing where members of the public who are not parties to the
certification hearing and who reside within the jurisdiction of
the local government may testify shall be held within the
boundaries of each county in which a local government that made
such a request is located.

(c) A local government shall notify the administrative
law judge and all parties not later than 50 days after the
filing of the application has been determined complete as to
whether the local government wishes to have a public hearing
within the boundaries of its county. If a filing for an
alternate corridor is accepted for consideration under s.
403.5271(1), the department and the applicant, any newly
affected local government must notify the administrative law
judge and all parties not later than 10 days after the date
concerning the alternate corridor has been determined complete
as to whether the local government wishes to have such a public
hearing. The local government is responsible for providing the
location of the public hearing if held separately from the
certification hearing.

(d) Within 5 days after notification, the
administrative law judge shall determine the date of the public

hearing, which shall be held before or during the certification
hearing. If two or more local governments within one county
request a public hearing, the hearing shall be consolidated so
that only one public hearing is held in any county. The location
of a consolidated hearing shall be determined by the
administrative law judge.

(e) If a local government does not request a public
hearing within 50 days after the filing of the application
has been determined complete, members of the public who are not
parties to the certification hearing and who reside within the
jurisdiction of the local government may testify during the
portion of the certification hearing held under paragraph (b) at which public testimony is heard.

(6) (a) No later than 25 days before the certification
hearing, the department or the applicant may request that the
administrative law judge cancel the certification hearing and
relinquish jurisdiction to the department if all parties to the
proceeding stipulate that there are no disputed issues of
material fact or law to be raised at the certification hearing.

Section 89. Paragraphs (b), (c), and (e) of subsection (1)
of section 403.5271, Florida Statutes, are amended to read:

403.5271 Alternate corridors.--

(1) No later than 45 days before the originally scheduled
certification hearing, any party may propose alternate
transmission line corridor routes for consideration under the
provisions of this act.

(b) 1. Within 7 days after receipt of the notice, the
applicant and the department shall file with the administrative
law judge and all parties a notice of acceptance or rejection of
a proposed alternate corridor for consideration. If the
alternate corridor is rejected by the applicant or the
department, the certification hearing and the public hearings
shall be held as scheduled. If both the applicant and the
department accept a proposed alternate corridor for
consideration, the certification hearing and the public hearings
shall be rescheduled, if necessary. If a filing for an alternate
corridor is accepted for consideration by the department and the
applicant, any newly affected local government must notify the
administrative law judge and all parties not later than 10 days
after the data concerning the alternate corridor has been
determined complete as to whether the local government wishes to
have such a public hearing. The local government is responsible
for providing the location of the public hearing if held
separately from the certification hearing. The provisions of s.
403.527(4)(b) and (c) shall apply. Notice of the local hearings
shall be published in accordance with s. 403.5363.

2. If rescheduled, the certification hearing shall be held
no more than 90 days after the previously scheduled
certification hearing, unless the data submitted under paragraph
(d) is determined to be incomplete, in which case the
rescheduled certification hearing shall be held no more than 180
days after the previously scheduled certification hearing. If
additional time is needed due to the alternate corridor crossing
a local government jurisdiction that was not previously
affected, the remainder of the schedule listed below shall be
appropriately adjusted by the administrative law judge to allow

that local government to prepare a report pursuant to s.
403.526(2)(a)(5). Notice that the certification hearing has been
deferred due to the acceptance of the alternate corridor shall
be published in accordance with s. 403.5363.

(c) Notice of the filing of the alternate corridor of the
revised time schedule, of the deadline for newly affected
persons and agencies to file notice of intent to become a party,
of the rescheduled hearing date, and of the proceedings shall be
published by the alternate proponent in accordance with s.
403.5363(2). If the notice is not timely published or does not
meet the notice requirements, the alternate shall be deemed
withdrawn.

(e)1. Reviewing agencies shall advise the department of
any issues concerning completeness no later than 15 days after
the submittal of the data required by paragraph (d). Within 22
days after receipt of the data, the department shall issue a
determination of completeness.

2. If the department determines that the data required by
paragraph (d) is not complete, the party proposing the alternate
corridor must file such additional data to correct the
incompleteness. This additional data must be submitted within 14
days after the determination by the department.

3. Reviewing agencies may advise the department of any
issues concerning completeness of the additional data within 10
days after the filing by the party proposing the alternate
corridor. If the department, within 14 days after receiving the
additional data, determines that the data remains incomplete,
the incompleteness of the data is deemed a withdrawal of the
proposed alternate corridor. The department may make its
determination based on recommendations made by other affected
agencies.
5393
5394 Section 90. Subsection (3) of section 403.5272, Florida
5395 Statutes, is amended to read:
5396  403.5272 Informational public meetings.--
5397  (3) A local government or regional planning council that
5398 intends to conduct an informational public meeting must provide
5399 notice of the meeting, with notice sent to all parties listed in
5400 s. 403.527(2)(a), not less than 15 days before the meeting and
5401 to the general public in accordance with s. 403.5363(4).
5402
5403 Section 91. Subsection (1) of section 403.5312, Florida
5404 Statutes, is amended to read:
5405  403.5312 Filing of notice of certified corridor route.--
5406  (1) Within 60 days after certification of a directly
5407 associated transmission line under ss. 403.501-403.518 or a
5408 transmission line corridor under ss. 403.52-403.535, the
5409 applicant shall file with the department and, in accordance with
5410 s. 28.222, with the clerk of the circuit court for each county
5411 through which the corridor will pass, a notice of the certified
5412 route.
5413
5414 Section 92. Section 403.5363, Florida Statutes, is amended to read:
5415  403.5363 Public notices; requirements.--
5416  (1)(a) The applicant shall arrange for the publication of
5417 the notices specified in paragraph (b).
5418  1. The notices shall be published in newspapers of general
5419 circulation within counties crossed by the transmission line
5420 corridors proper for certification. The required newspaper
5421 notices for filing of an application and for the certification
5422 hearing shall be one half page in size in a standard size
5423 newspaper or a full page in a tabloid size newspaper and
5424 published in a section of the newspaper other than the section
5425 for legal notices. Those two notices must include a map
5426 generally depicting all transmission corridors proper for
5427 certification. A newspaper of general circulation shall be the
5428 newspaper within a county crossed by a transmission line
5429 corridor proper for certification which newspaper has the
5430 largest daily circulation in that county and has its principal
5431 office in that county. If the newspaper having the largest daily
5432 circulation has its principal office outside the county, the
5433 notices must appear in both the newspaper having the largest
5434 circulation in that county and in a newspaper authorized to
5435 publish legal notices in that county.
5436  2. The department shall adopt rules specifying the content
5437 of the newspaper notices.
5438  3. All notices published by the applicant shall be paid
5439 for by the applicant and shall be in addition to the application
5440 fee.
5441 (b) Public notices that must be published under this
5442 section include:
5443  1. The notice of the filing of an application, which must
5444 include a description of the proceedings required by this act.
5445 The notice must describe the provisions of s. 403.531(1) and (2)
5446 and give the date by which notice of intent to be a party or a
5447 petition to intervene in accordance with s. 403.527(2) must be
5448 published.
filed. This notice must be published no more than 21 days after
the application is filed. The notice shall, at a minimum, be
one-half page in size in a standard-size newspaper or a full
page in a tabloid-size newspaper. The notice must include a map
generally depicting all transmission corridors proper for
certification.

2. The notice of the certification hearing and any other
public hearing held permitted under s. 403.527(4). The notice
must include the date by which a person wishing to appear as a
party must file the notice to do so. The notice of the
originally scheduled certification hearing must be published at
least 65 days before the date set for the certification hearing.
The notice shall meet the size and map requirements set forth in
paragraph 1.

3. The notice of the cancellation of the certification
hearing under s. 403.527(6), if applicable. The notice must be
published at least 3 days before the date of the originally
scheduled certification hearing. The notice shall, at a minimum,
be one-fourth page in size in a standard-size newspaper or one-
half page in a tabloid-size newspaper. The notice shall not
require a map to be included.

4. The notice of the deferral of the certification
hearing due to the acceptance of an alternate corridor under s.
403.5272(1)(b)2. The notice must be published at least 7 days
before the date of the originally scheduled certification
hearing. The notice shall, at a minimum, be one-eighth page in
size in a standard-size newspaper or one-fourth page in a
tabloid-size newspaper. The notice shall not require a map to be
included.

5. If the notice of the rescheduled certification hearing
required of an alternate proponent under s. 403.5272(1)(c) is
not timely published or does not meet the notice requirements
such that an alternate corridor is withdrawn under the
provisions of s. 403.5272(1)(c), the notice of the rescheduled
hearing and any local hearings shall be provided by the
applicant at least 30 days prior to the rescheduled
certification hearing.

6. The notice of the filing of a proposal to modify the
certification submitted under s. 403.5315, if the department
determines that the modification would require relocation or
expansion of the transmission line right-of-way or a certified
substation.

(2)(a) Each proponent of an alternate corridor shall
arrange for newspaper notice of the publication of the filing of
the proposal for an alternate corridor. If there is more than
one alternate proponent, the proponents may jointly publish
notice, so long as the content requirements below are met and
the maps are legible.

(b) The notice shall specify the revised time schedules,
the date by which newly affected persons or agencies may file
the notice of intent to become a party, and the date of the
rescheduled hearing, and the date of any public hearing held
under s. 403.5272(1)(b)1.

(c) A notice listed in this subsection must be published
in a newspaper of general circulation within the county or
counties crossed by the proposed alternate corridor and comply
with the content, size, and map requirements set forth in this
section paragraph (1)(a).
(d) The notice of the alternate corridor proposal must be
published not less than 45 60 days before the rescheduled
certification hearing.
(3) The department shall arrange for the publication of
the following notices in the manner specified by chapter 120:
(a) The notice of the filing of an application and the
date by which a person intending to become a party must file a
petition to intervene or a notice of intent to be a party. The
notice must be published no later than 21 days after the
application has been filed.
(b) The notice of any administrative hearing for
certification, if applicable. The notice must be published not
less than 65 days before the date set for a hearing, except that
notice for a rescheduled certification hearing after acceptance
of an alternative corridor must be published not less than 50
days before the date set for the hearing.
(c) The notice of the cancellation of a certification
hearing under s. 403.527(6), if applicable. The notice must be
published not later than 7 days before the date of the
originally scheduled certification hearing.
(d) The notice of the deferment of the certification
hearing due to the acceptance of an alternate corridor under s.
403.527(1)(b). The notice must be published at least 7 days
before the date of the originally scheduled certification
hearing.
with the department’s Siting Coordination Office of landowners
and residences that were notified.

5560 (6)(a) A good faith effort shall be made by the proponent
5561 of an alternate corridor that includes a transmission line, as
5562 defined by s. 403.522(22), to provide direct notice of the
5563 filing of an alternate corridor for certification by United
5564 States mail or hand delivery of the filing no later than 30 days
5565 after filing of the alternate corridor to all local landowners
5566 whose property, as noted in the most recent local government tax
5567 records, and residences are located within one-quarter mile of
5568 the proposed boundaries of a transmission line corridor that
5569 includes a transmission line as defined by s. 403.522(22).

5570 (b) No later than 45 days after the filing of an alternate
5571 corridor for certification, the proponent of an alternate
5572 corridor shall file a list with the department’s Siting
5573 Coordination Office of landowners and residences that were
5574 notified.

5575 Section 93. Paragraphs (d) and (e) of subsection (1) of
5576 section 403.5365, Florida Statutes, are amended to read:
5577 403.5365 Fees; disposition.—The department shall charge
5578 the applicant the following fees, as appropriate, which, unless
5579 otherwise specified, shall be paid into the Florida Permit Fee
5580 Trust Fund:

5581 (1) An application fee.

5582 (d)1. Upon written request with proper itemized accounting
5583 within 90 days after final agency action by the siting board or
5584 the department or the written notification of the withdrawal of
5585 the application, the agencies that prepared reports under s.
Section 94. Section 403.7055, Florida Statutes, is created to read:

403.7055 Methane capture.--

(1) Each county is encouraged to form multicounty regional solutions to the capture and reuse or sale of methane gas from landfills and wastewater treatment facilities.

(2) The department shall provide planning guidelines and technical assistance to each county to develop and implement such multicounty efforts.

Section 95. Section 403.7032, Florida Statutes, is created to read:

403.7032 Recycling.--

(1) The Legislature finds that the failure or inability to economically recover material and energy resources from solid waste results in the unnecessary waste and depletion of our natural resources. As the state continues to grow, so will the potential amount of discarded material that must be treated and disposed of, necessitating the improvement of solid waste collection and disposal. Therefore, the maximum recycling and reuse of such resources are considered high-priority goals of the state.

(2) By the year 2020, the long-term goal for the recycling efforts of state and local governmental entities, private companies and organizations, and the general public is to reduce the amount of recyclable solid waste disposed of in waste management facilities, landfills, or incineration facilities by a statewide average of at least 75 percent. However, any solid waste used for the production of renewable energy shall count toward the long term recycling goal as set forth in this section.

(3) The Department of Environmental Protection shall develop a comprehensive recycling program that is designed to achieve the percentage under subsection (2) and submit the program to the President of the Senate and the Speaker of the House of Representatives by January 1, 2010. The program may not be implemented until approved by the Legislature. The program must be developed in coordination with input from state and local entities, private businesses, and the public. Under the program, recyclable materials shall include, but are not limited to, metals, paper, glass, plastic, textile, rubber materials, and mulch. Components of the program shall include, but are not limited to:

(a) Programs to identify environmentally preferable purchasing practices to encourage the purchase of recycled, durable, and less toxic goods.

(b) Programs to educate students in grades K-12 in the benefits of, and proper techniques for, recycling.

(c) Programs for statewide recognition of successful recycling efforts by schools, businesses, public groups, and private citizens.

(d) Programs for municipalities and counties to develop and implement efficient recycling efforts to return valuable materials to productive use, conserve energy, and protect natural resources.
(e) Programs by which the department can provide technical assistance to municipalities and counties in support of their recycling efforts.

(f) Programs to educate and train the public in proper recycling efforts.

(g) Evaluation of how financial assistance can best be provided to municipalities and counties in support of their recycling efforts.

(h) Evaluation of why existing waste management and recycling programs in the state have not been better used.

Section 96. Section 403.7033, Florida Statutes, is created to read:

403.7033 Departmental analysis of particular recyclable materials.--The Legislature finds that prudent regulation of recyclable materials is crucial to the ongoing welfare of Florida's ecology and economy. As such, the Department of Environmental Protection shall undertake an analysis of the need for new or different regulation of auxiliary containers, wrappings, or disposable plastic bags used by consumers to carry products from retail establishments. The analysis shall include input from state and local government agencies, stakeholders, private businesses, and citizens, and shall evaluate the efficacy and necessity of both statewide and local regulation of these materials. To ensure consistent and effective implementation, the department shall submit a report with conclusions and recommendations to the Legislature no later than February 1, 2010. Until such time that the Legislature adopts the recommendations of the department, no local government may enact any rule, regulation, or ordinance regarding use, disposition, sale, prohibition, restriction, or tax of such auxiliary containers, wrappings, or disposable plastic bags.

Section 97. 403.706 Local government solid waste responsibilities.--

(2) (a) Each county shall implement a recyclable materials recycling program. Counties and municipalities are encouraged to form cooperative arrangements for implementing recycling programs.

(b) Such programs shall be designed to recover a significant portion of at least four of the following materials from the solid waste stream prior to final disposal at a solid waste disposal facility and to offer these materials for recycling: newspaper, aluminum cans, steel cans, glass, plastic bottles, cardboard, office paper, and yard trash. Local governments which operate permitted waste-to-energy facilities may retrieve ferrous and nonferrous metal as a byproduct of combustion.

(c) Local governments are encouraged to separate all plastics, metal, and all grades of paper for recycling prior to final disposal and are further encouraged to recycle yard trash and other mechanically treated solid waste into compost available for agricultural and other acceptable uses.

(d) By July 1, 2010, each county shall develop and implement a plan to achieve a goal to compost co-encouraged-to consider plans for composting or mulching of organic materials that would otherwise be disposed of in a landfill. The goal...
shall provide that up to 10 percent and no less than 5 percent
of organic material would be composted within the county and the
municipalities within its boundaries. The department may reduce
or modify the compost goal if the county demonstrates to the
department that achievement of the goal would be impractical
given the county's unique demographic, urban density, or
inability to separate normally compostable material from the
solid waste stream. The composting plan is mulching plans are
encouraged to address partnership with the private sector.

(e) Each county is encouraged to consider plans for
mulching organic materials that would otherwise be disposed of
in a landfill. The mulching plans are encouraged to address
partnership with the private sector.

Section 98. Subsection (6) of section 403.814, Florida
Statutes, is amended to read:
403.814 General permits; delegation.--
(6) Construction and maintenance of electric transmission
or distribution lines in wetlands by electric utilities, as
defined in s. 366.02, shall be authorized by general permit
provided the following provisions are implemented:

(a) All permanent fill shall be at grade. Fill shall be
limited to that necessary for the electrical support structures,
towers, poles, guy wires, stabilizing backfill, and at-grade
access roads limited to 20-foot widths; and
(b) The permittee may utilize access and work areas
limited to the following: a linear access area of up to 25 feet
wide between electrical support structures, an access area of up
to 25 feet wide to electrical support structures from the edge
of the right-of-way, and a work area around the electrical
support structures, towers, poles, and guy wires. These areas
may be cleared to ground, including removal of stumps as
necessary; and
(c) Vegetation within wetlands may be cut or removed no
lower than the soil surface under the conductor, and 20 feet to
either side of the outermost conductor, while maintaining the
remainder of the project right-of-way within the wetland by
selectively clearing vegetation which has an expected mature
height above 14 feet. Brazilian pepper, Australian pine, and
melaleuca shall be eradicated throughout the wetland portion of
the right-of-way; and
(d) Erosion control methods shall be implemented as
necessary to ensure that state water quality standards for
turbidity are met. Diversions and impoundment of surface waters
shall be minimized; and
(e) The proposed construction and clearing shall not
adversely affect threatened and endangered species; and
(f) The proposed construction and clearing shall not
result in a permanent change in existing ground surface
elevation; and
(g) Where fill is placed in wetlands, the clearing to
ground of forested wetlands is restricted to 4.0 acres per 10-
-mile section of the project, with no more than one impact site
exceeding 0.5 acres. The impact site which exceeds 0.5 acres
shall not exceed 2.0 acres. The total forested wetland clearing
to the ground per 10-mile section shall not exceed 15 acres. The
10-mile sections shall be measured from the beginning to the

CODING: Words [removed] are deletions; words [underlined] are additions.
terminus, or vice versa, and the section shall not end in a
wetland;

(h) The general permit authorized by this subsection shall
not apply in forested wetlands located within 550 feet from the
shoreline of a named water body designated as an Outstanding
Florida Water; and

(i) This subsection also applies to transmission lines and
appurtenances certified under part II of this chapter. However,
the criteria of the general permit shall not affect the
authority of the siting board to condition certification of
transmission lines as authorized under part II of this chapter.

Maintenance of existing electric lines and clearing of
vegetation in wetlands conducted without the placement of
structures in wetlands or other dredge and fill activities does
not require an individual or general construction permit. For
the purpose of this subsection, wetlands shall mean the landward
extent of waters of the state regulated under s. 403.927 403.927,
403.94-403.929, and isolated and nonisolated wetlands regulated
under part IV of chapter 373. The provisions provided in this
subsection apply to the permitting requirements of the
department, any water management district, and any local
government implementing part IV of chapter 373 or part VIII of
this chapter.

Section 99. Section 489.145, Florida Statutes, is amended
to read:

489.145 Guaranteed energy, water, and wastewater
performance savings contracting.--

Page 209 of 237

CODING: Words stricken are deletions; words underlined are additions.

hb7135-03-er
facilities or infrastructure facility, which reduces energy or
water consumption, wastewater production, or energy-related
operating costs and includes, but is not limited to:
1. Insulation of the facility structure and systems within
the facility.
2. Storm windows and doors, caulking or weatherstripping,
multiglazed windows and doors, heat-absorbing, or heat-
reflective, glazed and coated window and door systems,
additional glazing, reductions in glass area, and other window
and door system modifications that reduce energy consumption.
3. Automatic energy control systems.
4. Heating, ventilating, or air-conditioning system
modifications or replacements.
5. Replacement or modifications of lighting fixtures to
increase the energy efficiency of the lighting system, which, at
a minimum, must conform to the applicable state or local
building code.
7. Cogeneration systems that produce steam or forms of
energy such as heat, as well as electricity, for use primarily
within a facility or complex of facilities.
8. Energy conservation measures that reduce British
thermal units (Btu), kilowatts (kW), or kilowatt hours (kWh)
consumed or provide long-term operating cost reductions or
significantly reduce Btu consumed.
9. Renewable energy systems, such as solar, biomass, or
wind systems.

10. Devices that reduce water consumption or sewer
charges.
11. Energy storage systems, such as fuel cells and thermal
storage.
12. Energy-generating technologies, such as
microturbines.
13. Any other repair, replacement, or upgrade of existing
equipment.

(c) "Energy, water, or wastewater cost savings" means a
measured reduction in the cost of fuel, energy or water
consumption, wastewater production, and stipulated operation and
maintenance created from the implementation of one or more
energy, water, or wastewater efficiency or conservation measures
when compared with an established baseline for the previous cost
of fuel, energy or water consumption, wastewater production, and
stipulated operation and maintenance.

(d) "Guaranteed energy, water, and wastewater performance
savings contract" means a contract for the evaluation,
recommendation, and implementation of energy, water, or
wastewater efficiency or conservation measures, which, at a
minimum, shall include:
1. The design and installation of equipment to implement
one or more of such measures and, if applicable, operation and
maintenance of such measures.
2. The amount of any actual annual savings that meet or
exceed total annual contract payments made by the agency for the
contract and may include allowable cost avoidance if determined
appropriate by the Chief Financial Officer.
3. The finance charges incurred by the agency over the
life of the contract.

(e) "Guaranteed energy, water, and wastewater performance
savings contractor" means a person or business that is licensed
under chapter 471, chapter 481, or this chapter, and is
experienced in the analysis, design, implementation, or
installation of energy, water, and wastewater efficiency and
conservation measures through energy performance contracts.

(f) "Investment grade energy audit" means a detailed
energy, water, and wastewater audit, along with an accompanying
analysis of proposed energy, water, and wastewater conservation
measures, and their costs, savings, and benefits prior to entry
into an energy savings contract.

PROCEDURES.--

(a) An agency may enter into a guaranteed energy, water,
and wastewater performance savings contract with a guaranteed
energy, water, and wastewater performance savings contractor to
significantly reduce energy or water consumption, wastewater
production, or energy-related operating costs of an agency
facility through one or more energy, water, or wastewater
efficiency or conservation measures.

(b) Before design and installation of energy, water, or
wastewater efficiency and conservation measures, the agency must
obtain from a guaranteed energy, water, and wastewater
performance savings contractor a report that summarizes the
costs associated with the energy, water, or wastewater
efficiency and conservation measures or energy-related
operational cost savings measures and provides an estimate of the
amount of the energy cost savings. The agency and the guaranteed
energy, water, and wastewater performance savings contractor may
enter into a separate agreement to pay for costs associated with
the preparation and delivery of the report; however, payment to
the contractor shall be contingent upon the report's projection
of energy, water, and wastewater cost savings being equal to or
greater than the total projected costs of the design and
installation of the report's energy conservation measures.

(c) The agency may enter into a guaranteed energy, water,
and wastewater performance savings contract with a guaranteed
energy, water, and wastewater performance savings contractor if
the agency finds that the amount the agency would spend on the
energy, water, and wastewater efficiency and conservation
measures will not likely exceed the amount of the energy cost
savings for up to 20 years from the date of installation, based
on the life cycle cost calculations provided in s. 255.255, if
the recommendations in the report were followed and if the
qualified provider or providers give a written guarantee that
the energy cost savings will meet or exceed the costs of the
system. However, actual computed cost savings must meet or
exceed the estimated cost savings provided in each agency's
program approval. Baseline adjustments used in calculations must
be specified in the contract. The contract may provide for
installation payments for a period not to exceed 20 years.

(d) A guaranteed energy, water, and wastewater performance
savings contractor must be selected in compliance with s.
287.055; except that if fewer than three firms are qualified to
perform the required services, the requirement for agency
section of three firms, as provided in s. 287.055(4)(b), and
the bid requirements of s. 287.057 do not apply.

(e) Before entering into a guaranteed energy, water, and wastewater performance savings contract, an agency must provide published notice of the meeting in which it proposes to award
the contract, the names of the parties to the proposed contract,
and the contract’s purpose.

(f) A guaranteed energy, water, and wastewater performance savings contract may provide for financing, including tax-exempt financing, by a third party. The contract for third-party third-party third-party financing may be separate from the energy, water, and wastewater performance contract. A separate contract for third-party third-party financing under this paragraph must include a provision that the third-party third-party financier must not be
granted rights or privileges that exceed the rights and
privileges available to the guaranteed energy, water, and wastewater performance savings contractor.

(g) Financing for guaranteed energy, water, and wastewater performance savings contracts may be provided under the
authority of s. 287.064.

(h) The Office of the Chief Financial Officer shall review
proposals from state agencies to ensure that the most effective
financing is being used.

(i) Annually, the agency that has entered into the
contract shall provide the Department of Management Services and
the Chief Financial Officer the measurement and verification
report required by the contract to validate that savings have
occurred.

(j) In determining the amount the agency will finance
to acquire the energy, water, and wastewater efficiency and
conservation measures, the agency may reduce such amount by the
application of any grant monies, rebates, or capital funding
available to the agency for the purpose of buying down the cost
of the guaranteed energy, water, and wastewater performance
savings contract. However, in calculating the life cycle cost as
required in paragraph (c), the agency shall not apply any
grants, rebates, or capital funding.

(5) CONTRACT PROVISIONS.--

(a) A guaranteed energy, water, and wastewater performance savings contract must include a written guarantee that may
include, but is not limited to the form of, a letter of credit,
insurance policy, or corporate guarantee by the guaranteed
energy, water, and wastewater performance savings contractor
that annual energy cost savings will meet or exceed the
amortized cost of energy, water, and wastewater efficiency and
conservation measures.

(b) The guaranteed energy, water, and wastewater performance savings contract must provide that all payments,
except obligations on termination of the contract before its
expiration, may be made over time, but not to exceed 20 years
from the date of complete installation and acceptance by the
agency, and that the annual savings are guaranteed to the extent
necessary to make annual payments to satisfy the guaranteed
energy, water, and wastewater performance savings contract.

(c) The guaranteed energy, water, and wastewater performance savings contract must require that the guaranteed
energy, water, and wastewater performance savings contractor to whom the contract is awarded provide a 100-percent public construction bond to the agency for its faithful performance, as required by s. 255.05.

(d) The guaranteed energy, water, and wastewater performance savings contract may contain a provision allocating to the parties to the contract any annual energy cost savings that exceed the amount of the energy cost savings guaranteed in the contract.

(e) The guaranteed energy, water, and wastewater performance savings contract shall require the guaranteed energy, water, and wastewater performance savings contractor to provide to the agency an annual reconciliation of the guaranteed energy or associated cost savings. If the reconciliation reveals a shortfall in annual energy or associated cost savings, the guaranteed energy, water, and wastewater performance savings contractor is liable for such shortfall. If the reconciliation reveals an excess in annual energy cost savings, the excess savings may be allocated under paragraph (d) but may not be used to cover potential energy or associated cost savings shortages in subsequent contract years.

(f) The guaranteed energy, water, and wastewater performance savings contract must provide for payments of not less than one-twentieth of the price to be paid within 2 years from the date of the complete installation and acceptance by the agency using straight-line amortization for the term of the loan, and the remaining costs to be paid at least quarterly, not to exceed a 20-year term, based on life cycle cost calculations.

(g) The guaranteed energy, water, and wastewater performance savings contract may extend beyond the fiscal year in which it becomes effective; however, the term of any contract expires at the end of each fiscal year and may be automatically renewed annually for up to 20 years, subject to the agency making sufficient annual appropriations based upon continued realized energy, water, and wastewater savings.

(h) The guaranteed energy, water, and wastewater performance savings contract must stipulate that it does not constitute a debt, liability, or obligation of the state.

(e) PROGRAM ADMINISTRATION AND CONTRACT REVIEW.--The Department of Management Services, with the assistance of the Office of the Chief Financial Officer, shall review, within available resources, provide technical assistance to state agencies contracting for energy, water, and wastewater efficiency and conservation measures and engage in other activities considered appropriate by the department for promoting and facilitating guaranteed energy, water, and wastewater performance contracting by state agencies. The Department of Management Services shall review the investment-grade audit for each proposed project and certify that the cost savings are appropriate and sufficient for the term of the contract. The Office of the Chief Financial Officer, with the assistance of the Department of Management Services, shall ensure, within available resources, develop model contractual and related documents for use by state agencies. Prior to entering into a guaranteed energy, water, and wastewater performance savings contract, any contract or lease for third-party
financing, or any combination of such contracts, a state agency shall submit such proposed contract or lease to the Office of the Chief Financial Officer for review and approval. A proposed contract or lease shall include:

(a) Supporting information required by s. 216.023(4)(a)9. in ss. 287.063(5) and 287.064(11). For contracts approved under this section, the criteria may, add a minimum, include the specification of a benchmark cost of capital and minimum real rate of return on energy, water, or wastewater savings against which proposals shall be evaluated.

(b) Documentation supporting recurring funds requirements in ss. 287.063(5) and 287.064(11).

(c) Approval by the head of the agency or his or her designee.

(d) An agency measurement and verification plan to monitor cost savings.

(7) FUNDING SUPPORT.--For purposes of consolidated financing of deferred payment commodity contracts under this section by an agency, any such contract must be supported from available funds appropriated to the agency in an appropriation category, as defined in chapter 216, that the Chief Financial Officer has determined is appropriate or that the Legislature has designated for payment of the obligation incurred under this section.

The Office of the Chief Financial Officer shall not approve any contract submitted under this section from a state agency that does not meet the requirements of this section.
between 9 and 10 percent ethanol shall be applied to all gasoline containing between 1 and 10 percent ethanol by volume provided the last three or fewer deliveries contained between 9 and 10 percent ethanol by volume. If there is no reasonable availability of ethanol or the price of ethanol exceeds the price of gasoline, the T50 and TV/L specifications for gasoline containing between 9 and 10 percent ethanol shall be applicable for gasoline containing between 1 and 10 percent ethanol for up to three deliveries of fuel.

Section 101. Section 526.201, Florida Statutes, is created to read:

526.201 Short title.--Sections 526.201-526.207 may be cited as the "Florida Renewable Fuel Standard Act."

Section 102. Section 526.202, Florida Statutes, is created to read:

526.202 Legislative findings.--The Legislature finds it is vital to the public interest and to the state's economy to establish a market and the necessary infrastructure for renewable fuels in this state by requiring that all gasoline offered for sale in this state include a percentage of agriculturally derived, denatured ethanol. The Legislature further finds that the use of renewable fuel reduces greenhouse gas emissions and dependence on imports of foreign oil, improves the health and quality of life for Floridians, and stimulates economic development and the creation of a sustainable industry that combines agricultural production with state-of-the-art technology.

Section 103. Section 526.203, Florida Statutes, is created to read:

526.203 Renewable fuel standard.--

(1) DEFINITIONS.--As used in this act:

(a) "Blender," "importer," "terminal supplier," and "wholesaler" are defined as provided in s. 206.01.

(b) "Blended gasoline" means a mixture of 90 to 91 percent gasoline and 9 to 10 percent fuel ethanol, by volume, that meets the specifications as adopted by the department. The fuel ethanol portion may be derived from any agricultural source.

(c) "Fuel ethanol" means anhydrous denatured alcohol produced by the conversion of carbohydrates that meets the specifications as adopted by the department.

(d) "Unblended gasoline" means gasoline that has not been blended with fuel ethanol and that meets the specifications as adopted by the department.

(2) FUEL STANDARD.--Beginning December 31, 2010, all gasoline sold or offered for sale in Florida by a terminal supplier, importer, blender, or wholesaler shall be blended gasoline.

(3) EXEMPTIONS.--The requirements of this act do not apply to the following:

(a) Fuel used in aircraft.

(b) Fuel sold for use in boats and similar watercraft.

(c) Fuel sold to a blender.

(d) Fuel sold for use in collector vehicles or vehicles eligible to be licensed as collector vehicles, off-road vehicles, motorcycles, or small engines.
(e) Fuel unable to comply due to requirements of the United States Environmental Protection Agency.

(f) Fuel transferred between terminals.

(g) Fuel exported from the state in accordance with s. 206.052.

(h) Fuel qualifying for any exemption in accordance with chapter 206.

(i) Fuel for a railroad locomotive.

(j) Fuel for equipment, including vehicle or vessel, covered by a warranty that would be voided, if explicitly stated in writing by the vehicle or vessel manufacturer, if the equipment were to be operated using fuel meeting the requirements of subsection (2).

All records of sale of unleaded gasoline shall include the following statement: "Unleaded gasoline may be sold only for the purposes authorized under s. 526.201(3), F.S."

(4) REPORT—Pursuant to s. 206.43, each terminal supplier, importer, blender, and wholesaler shall include in its report to the Department of Revenue the number of gallons of blended and unleaded gasoline sold. The Department of Revenue shall provide a monthly summary report to the department.

Section 104. Section 526.204, Florida Statutes, is created to read:

526.204 Waivers and suspensions.--

(1) If a terminal supplier, importer, blender, or wholesaler is unable to obtain fuel ethanol or blended gasoline at the same or lower price as unleaded gasoline, then the sale or delivery of unleaded gasoline by the terminal supplier, importer, blender, or wholesaler shall not be deemed a violation of this act. The terminal supplier, importer, blender, or wholesaler shall, upon request of the department, provide the required documentation regarding the sales transaction and price of fuel ethanol, blended gasoline, and unleaded gasoline to the department.

(2) To account for supply disruptions and ensure reliable supplies of motor fuels in the state, the requirements of this act shall be suspended when the provisions of s. 252.36(2) in any area of the state are in effect plus an additional 30 days.

Section 105. Section 526.205, Florida Statutes, is created to read:

526.205 Enforcement, extensions.--

(1) Unless a waiver or suspension pursuant to s. 526.204 applies, or an extension has been granted pursuant to subsection (3), it shall be unlawful for a terminal supplier, importer, blender, or wholesaler to sell or distribute, or offer for sale or distribution, any gasoline which fails to meet the requirements of this act.

(2) Upon a determination by the department of a violation of this act, the department shall enter an order imposing one or more of the following penalties:

(a) Issuance of a warning letter.

(b) Imposition of an administrative fine of not more than $1,000 per violation for a first-time offender. For a second-time or repeat offender, or any person who is shown to have willfully and intentionally violated any provision of this act,
the administrative fine shall not exceed $5,000 per violation.

When imposing any fine under this section, the department shall consider the monetary benefit to the violator as a result of noncompliance, whether the violation was committed willfully, and the compliance record of the violator. All funds recovered
by the department shall be deposited into the General Inspection Trust Fund.

(3) Any terminal supplier, importer, blender, or wholesaler may apply to the department by September 30, 2010, for an extension of time to comply with the requirements of this act. The application for an extension must demonstrate that the applicant has made a good faith effort to comply with the requirements but has been unable to do so for reasons beyond the applicant's control, such as delays in receiving governmental permits. The department shall review each application and make a determination as to whether the failure to comply was beyond the control of the applicant. If the department determines that the applicant made a good faith effort to comply, but was unable to do so for reasons beyond the applicant's control, the department shall grant an extension of time determined necessary for the applicant to comply.

Section 106. Section 526.206, Florida Statutes, is created to read:

526.206 Rules.--The Department of Revenue and the Department of Agriculture and Consumer Services are authorized to adopt rules pursuant to ss. 120.53(1) and 120.54 to implement the provisions of this act.

Section 107. Section 526.207, Florida Statutes, is created to read:

526.207 Studies and reports.--

(1) The Florida Energy and Climate Commission shall conduct a study to evaluate and recommend the life-cycle greenhouse gas emissions associated with all renewable fuels, including, but not limited to, biodiesel, renewable diesel, biobutanol, and ethanol derived from any source. In addition, the commission shall evaluate and recommend a requirement that all renewable fuels introduced into commerce in the state, as a result of the renewable fuel standard, shall reduce the life-cycle greenhouse gas emissions by an average percentage. The commission may also evaluate and recommend any benefits associated with the creation, banking, transfer, and sale of credits among fuel refiners, blenders, and importers.

(2) The Florida Energy and Climate Commission shall submit a report containing specific recommendations to the President of the Senate and the Speaker of the House of Representatives no later than December 31, 2010.

Section 108. Paragraph (a) of subsection (6) of section 553.73, Florida Statutes, is amended to read:

553.73 Florida Building Code.--

(6) (a) The commission, by rule adopted pursuant to ss. 120.53(1) and 120.54, shall update the Florida Building Code every 3 years. When updating the Florida Building Code, the commission shall select the most current version of the International Building Code, the International Fuel Gas Code, the International Mechanical Code, the International Plumbing Code, the International Nuclear Safety Code, the International Property Maintenance Code, the Florida Fire Prevention Code, the Florida Building Code, and all other Florida Codes that the commission determines are necessary to enact rules to implement the provisions of this act.
Code, and the International Residential Code, all of which are
adopted by the International Code Council, and the National
Electrical Code, which is adopted by the National Fire
Protection Association, to form the foundation codes of the
updated Florida Building Code, if the version has been adopted
by the applicable model code entity and made available to the
public at least 6 months prior to its selection by the
commission. The commission shall select the most current version
of the International Energy Conservation Code (IECC) as a
foundation code; however, the IECC shall be modified by the
commission to maintain the efficiencies of the Florida Energy
Efficiency Code for Building Construction adopted and amended
pursuant to s. 553.901.

Section 109. Section 553.9061, Florida Statutes, is
created to read:

553.9061 Scheduled increases in thermal efficiency
standards.--

(1) The purpose of this section is to establish a schedule
of increases in the energy performance of buildings subject to
the Florida Energy Efficiency Code for Building Construction.
The Florida Building Commission shall:

(a) Include the necessary provisions by the 2010 edition
of the Florida Energy Efficiency Code for Building Construction
to increase the energy performance of new buildings by at least
20 percent as compared to the energy efficiency provisions of

(b) Increase energy efficiency requirements by the 2013
edition of the Florida Energy Efficiency Code for Building
Construction by at least 30 percent as compared to the energy
efficiency provisions of the 2007 Florida Building Code adopted

(c) Increase energy efficiency requirements by the 2016
edition of the Florida Energy Efficiency Code for Building
Construction by at least 40 percent as compared to the energy
efficiency provisions of the 2007 Florida Building Code adopted

(d) Increase energy efficiency requirements by the 2019
edition of the Florida Energy Efficiency Code for Building
Construction by at least 50 percent as compared to the energy
efficiency provisions of the 2007 Florida Building Code adopted

(2) The Florida Building Commission shall identify within
code support and compliance documentation the specific building
options and elements available to meet the energy performance
goals established in subsection (1). Energy-efficiency
performance options and elements include, but are not limited
to:

(a) Solar water heating.

(b) Energy-efficient appliances.

(c) Energy-efficient windows, doors, and skylights.

(d) Low solar-absorption roofs, also known as "cool
roofs."

(e) Enhanced ceiling and wall insulation.

(f) Reduced-leak duct systems.

(g) Programmable thermostats.

(h) Energy-efficient lighting systems.
(3) The Florida Building Commission shall, prior to implementing the goals established in subsection (1), adopt by rule and implement a cost-effectiveness test for proposed increases in energy efficiency. The cost-effectiveness test shall measure cost-effectiveness and shall ensure that energy efficiency increases result in a positive net financial impact.

Section 110. Subsection (1) of section 553.909, Florida Statutes, is amended, subsections (3) and (4) are renumbered as subsections (6) and (7), respectively, and new subsections (3), (4), and (5) are added to that section, to read:

553.909 Setting requirements for appliances; exceptions.--

(1) The Florida Energy Efficiency Code for Building Construction shall set the minimum requirements for commercial or residential swimming pool pumps, swimming pool water heaters, and heat traps and thermostats for water heaters used to heat potable water sold for residential use. The code shall further establish the minimum acceptable standby loss for electric water heaters and the minimum recovery efficiency and standby loss for water heaters fueled by natural gas or liquefied petroleum gas.

(3) Commercial or residential swimming pool pumps or water heaters sold after July 1, 2011, shall comply with the requirements of this subsection. Natural gas pool heaters shall not be equipped with constantly burning pilots. Heat pump pool heaters shall have a coefficient of performance at low temperature of not less than 4.0. The thermal efficiency of gas-fired pool heaters and oil-fired pool heaters shall not be less than 78 percent. All pool heaters shall have a readily accessible on-off switch that is mounted outside the heater and that allows shutting off the heater without adjusting the thermostat setting.

(4) Pool pump motors shall not be split-phase, shaded-pole, or capacitor-start-induction run types. Residential pool pumps and pool pump motors with a total horsepower of 1 HP or more shall have the capability of operating at two or more speeds with a low speed having a rotation rate that is no more than one-half of the motor's maximum rotation rate. Residential pool pump motor controls shall have the capability of operating the pool pump at a minimum of two speeds. The default circulation speed shall be the residential filtration speed, with a higher speed override capability being for a temporary period not to exceed one normal cycle or 120 minutes, whichever is less. Except that circulation speed for solar pool heating systems shall be permitted to run at higher speeds during periods of usable solar heat gain.

(5) Portable electric spas standby power shall not be greater than 5(V2/3) watts where V is the total volume, in gallons, when spas are measured in accordance with the spa industry test protocol.

(6) The Florida Energy Efficiency Code for Building Construction may include standards for other appliances and energy-using systems if they are determined by the department to have a significant impact on the energy use of the building and if they are cost-effective to the consumer.
If the provisions of this section are preempted by federal standards, those provisions not preempted shall apply.

Section 111. (1) By July 1, 2009, the Agency for Enterprise Information Technology shall define objective standards for:

(a) Measuring data center energy consumption and efficiency, including, but not limited to, airflow and cooling, power consumption and distribution, and environmental control systems in a data center facility.

(b) Calculating total cost of ownership of energy-efficient information technology products, including initial purchase, installation, ongoing operation and maintenance, and disposal costs over the life cycle of the product.

(2) State shared resource data centers and other data centers that the Agency for Enterprise Information Technology has determined will be recipients for consolidating data centers, which are designated by the Agency for Enterprise Information Technology, shall evaluate their center facilities for energy efficiency using the standards established in this section.

(a) Results of these evaluations shall be reported to the Agency for Enterprise Information Technology, the President of the Senate, and the Speaker of the House of Representatives.

(b) By December 31, 2010, and bi-annually thereafter, the Agency for Enterprise Information Technology shall submit to the Legislature recommendations for reducing energy consumption and improving the energy efficiency of state data centers.

(3) The primary means of achieving maximum energy savings across all state data centers and computing facilities shall be the consolidation of data centers and computing facilities as determined by the Agency for Enterprise Information Technology. State data centers and computing facilities in the state data center system shall be established as an enterprise information technology service as defined in s. 282.0041. The Agency for Enterprise Information Technology shall make recommendations on consolidating state data centers and computing facilities, pursuant to s. 282.0056, by December 31, 2009.

(4) When the total cost of ownership of an energy-efficient product is less than or equal to the cost of the existing data center facility or infrastructure, technical specifications for energy-efficient products should be incorporated in the plans and processes for replacing, upgrading, or expanding data center facilities or infrastructure, including, but not limited to, network, storage, or computer equipment and software.

Section 112. Section 1004.648, Florida Statutes, is created to read:

1004.648 Florida Energy Systems Consortium.--

(1) There is created the Florida Energy Systems Consortium to promote collaboration among experts in the State University System for the purposes of sharing energy-related expertise and assisting in the development and implementation of a

Page 231 of 237

CODING: Words struck are deletions; words underlined are additions.
comprehensive, long-term, environmentally compatible, sustainable, and efficient energy strategic plan for the state.

(2) The consortium shall focus on the research and development of innovative energy systems that will lead to alternative energy strategies, improved energy efficiencies, and expanded economic development for the state.

(3) The consortium shall consist of the state universities as identified under s. 1000.21(6).

(4) The consortium shall be administered at the University of Florida by a director who shall be appointed by the President of the University of Florida.

(5) The director, whose office shall be located at the University of Florida, shall report to the Florida Energy and Climate Commission created pursuant to s. 377.6015.

(6) The oversight board shall consist of the Vice President for Research or other appropriate representative appointed by the university president of each member of the consortium.

(7) The oversight board shall be responsible for the technical performance and financial management of the consortium.

(8) In performing its responsibilities, the consortium shall collaborate with the oversight board and may also collaborate with industry and other affected parties.

(9) Through collaborative research and development across the State University System and the industry, the goal of the consortium is to become a world leader in energy research.

education, technology, and energy systems analysis. In so doing, the consortium shall:

(a) Coordinate and initiate increased collaborative interdisciplinary energy research among the universities and the energy industry.

(b) Assist in the creation and development of a Florida-based energy technology industry through efforts that would expedite commercialization of innovative energy technologies by taking advantage of the energy expertise within the State University System, high-technology incubators, industrial parks, and industry-driven research centers.

(c) Provide a state resource for objective energy systems analysis.

(d) Develop education and outreach programs to prepare a qualified energy workforce and informed public. Specifically, the faculty associated with the consortium shall coordinate a statewide workforce development initiative focusing on college-level degrees, technician training, and public and commercial sectors awareness. The consortium shall develop specific programs targeted at preparing graduates who have a background in energy, continuing education courses for technical and nontechnical professionals, and modules, laboratories, and courses to be shared among the universities. Additionally, the consortium shall work with the Florida Community College System using the Florida Advanced Technological Education Center for the coordination and design of industry-specific training programs for technicians.
(10) The consortium shall solicit and leverage state, federal, and private funds for the purpose of conducting education, research, and development in the area of sustainable energy.

(11) The oversight board, in consultation with the Florida Energy and Climate Commission, shall ensure that the consortium:

(a) Maintains accurate records of any funds received by the consortium.

(b) Meets financial and technical performance expectations, which may include external technical reviews as required.

(12) The steering committee shall consist of the university representatives included in the Centers of Excellence proposals for the Florida Energy Systems Consortium and the Center of Excellence in Ocean Energy Technology-Phase II which were reviewed during the 2007-2008 fiscal year by the Florida Technology, Research, and Scholarship Board created in s. 1004.226(4); a university representative appointed by the President of Florida International University; and the Florida Energy and Climate Commission. The steering committee shall be responsible for establishing and ensuring the success of the consortium's mission under subsection (9).

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

Section 113. Woody biomass economic study.--The Department of Agriculture and Consumer Services, in conjunction with the Department of Environmental Protection, shall conduct an economic impact analysis on the effects of granting financial incentives to energy producers who use woody biomass as fuel, including an analysis of effects on wood supply and prices and impacts on current markets and forest sustainability. The departments shall prepare and submit a report on the results of the analysis to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than March 1, 2010.

Section 114. The Public Service Commission shall analyze utility revenue decoupling and provide a report and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2009.

Section 115. Motor vehicle emissions standards.--If the Department of Environmental Protection proposes to adopt the California motor vehicle emission standards, such standards shall not be implemented until ratified by the Legislature. If the department proposes to modify its rule adopting the California motor vehicle emission standards, such rule modifications shall not be implemented until ratified by the Legislature.

Section 116. The Department of Education and the Department of Environmental Protection shall, in coordination...
with representatives of the business community, the
environmental community, and the energy community, develop a
program to provide awards or recognition for outstanding efforts
or achievements concerning conservation, reductions in energy
and water use, green cleaning solutions, green pest management,
recycling efforts, and curriculum development that is consistent
with efforts that enhance the quality of education while
preserving the environment. Entities that are eligible for such
an award or recognition include students, classes, teachers,
schools, or district school boards. The Legislature encourages
the Department of Education and the Department of Environmental
Protection to form partnerships with the private sector to help
fund the program.

Section 117. Section 377.901, Florida Statutes, is
repealed.

Section 118. Except as otherwise expressly provided in
this act, this act shall take effect July 1, 2008.
An act relating to administrative procedures; providing a short title; amending s. 120.52, F.S.; redefining the term "invalid exercise of delegated legislative authority" to remove a limitation on the construction of statutory language granting rulemaking authority; defining the terms "law implemented," "rulemaking authority," and "unadopted rule"; amending s. 120.53, F.S.; authorizing agencies to transmit agency orders electronically to the Division of Administrative Hearings; amending s. 120.536, F.S.; revising guidelines for the construction of statutory language granting rulemaking authority; amending s. 120.54, F.S.; prescribing limits and guidelines with respect to the incorporation of material by reference; prescribing requirements for material being incorporated by reference; prohibiting an agency head from delegating or transferring certain specified rulemaking responsibilities; revising the information required in notices of proposed actions; providing additional procedures for rule-adoption hearings; revising requirements for filing rules; requiring that material incorporated by reference be published by the agency when adopting emergency rules; revising provisions with respect to petitions to initiate rulemaking; amending s. 120.545, F.S.; revising duties and procedures of the Administrative Procedures Committee and agencies with respect to review of agency rules; deleting procedures for agency election to modify, withdraw, amend, or repeal a proposed rule; providing for the effect of the failure of an agency to respond to a committee objection to a statement of estimated regulatory costs within the time prescribed; deleting a requirement that the Department of State publish final legislative action; amending s. 120.55, F.S.; requiring the department to prescribe by rule the content requirements for rules, notices, and other materials; providing for the transfer of excess funds; requiring electronic publication of the Florida Administrative Code; prescribing requirements with respect to the content of such electronic publication; providing for filing information incorporated by reference in electronic form; providing requirements for the Florida Administrative Weekly Internet website; amending s. 120.56, F.S., relating to challenges to rules; conforming a cross-reference; revising procedures for administrative determinations of the invalidity of rules; requiring an agency to discontinue reliance on a statement under certain circumstances; providing an exception; deleting certain provisions relating to actions before a final hearing is held; amending s. 120.57, F.S.; revising procedures applicable to hearings involving disputed issues of material fact; prohibiting enforcement of unadopted agency rules under certain circumstances; amending s. 120.595, F.S.; increasing the limitation on attorney's fees in challenges to proposed agency rules or existing agency rules; providing for an award of reasonable costs and attorney's fees accrued by a petitioner under certain circumstances; providing for an award of fees and costs if the agency prevails and a party
59 participated for an improper purpose; amending s. 120.569, F.S.; requiring that certain administrative proceedings be
terminated and subsequently reinstated under different
provisions of law if a disputed issue of material fact
arises during the proceeding; conforming a cross-
reference; amending s. 120.74, F.S.; revising reporting
requirement for agency heads; amending ss. 120.80, 120.81,
409.175, 420.9072, and 420.9075, F.S.; conforming cross-
references; providing appropriations; requiring a
temporary increase in the space rate charge for
publication in the Florida Administrative Weekly;
revising, for a specified period, the limit for the
unencumbered balance in the Records Management Trust Fund
at the beginning of the fiscal year for fees collected
under ch. 120, F.S.; providing effective dates.

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

Section 1. This act may be cited as the "Open Government
Act."

Section 2. Subsection (8) of section 120.52, Florida
Statutes, is amended, present subsections (9) through (15) of
that section are renumbered as subsections (10) through (16),
respectively, present subsections (16), (17), (18), and (19) of
that section are redesignated as subsections (18), (19), (21),
and (22), respectively, and new subsections (9), (17), and (20)
are added to that section, to read:

120.52 Definitions.--As used in this act:
(8) "Invalid exercise of delegated legislative authority"
rule only because it is reasonably related to the purpose of the
enabling legislation and is not arbitrary and capricious or is
within the agency's class of powers and duties, nor shall an
agency have the authority to implement statutory provisions
setting forth general legislative intent or policy. Statutory
language granting rulemaking authority or generally describing
the powers and functions of an agency shall be construed to
extend no further than implementing or interpreting the specific
powers and duties conferred by the enabling statute by the same
statute.

(9) "Law implemented" means the language of the enabling
statute being carried out or interpreted by an agency through
rulemaking.

(17) "Rulemaking authority" means statutory language that
explicitly authorizes or requires an agency to adopt, develop,
establish, or otherwise create any statement coming within the
definition of the term "rule."

(20) "Unadopted rule" means an agency statement that meets
the definition of the term "rule," but that has not been adopted
pursuant to the requirements of s. 120.54.

Section 3. Paragraph (a) of subsection (2) of section
120.53, Florida Statutes, is amended to read:

120.53 Maintenance of orders; indexing; listing;
organizational information. --

(2)(a) An agency may comply with subparagraphs (1)(a)1. and
2. by designating an official reporter to publish and index by
subject matter each agency order that must be indexed and made
available to the public, or by electronically transmitting to the
division a copy of such orders for posting on the division's
website. An agency is in compliance with subparagraph (1)(a)3. if
it publishes in its designated reporter a list of each agency
final order that must be listed and preserves each listed order
and makes it available for public inspection and copying.

Section 4. Subsection (1) of section 120.536, Florida
Statutes, is amended to read:

120.536 Rulemaking authority: repeal; challenge.--

(1) A grant of rulemaking authority is necessary but not
sufficient to allow an agency to adopt a rule; a specific law to
be implemented is also required. An agency may adopt only rules
that implement or interpret the specific powers and duties
granted by the enabling statute. No agency shall have authority
to adopt a rule only because it is reasonably related to the
purpose of the enabling legislation and is not arbitrary and

capricious or is within the agency's class of powers and duties,

nor shall an agency have the authority to implement statutory
provisions setting forth general legislative intent or policy.

Statutory language granting rulemaking authority or generally
describing the powers and functions of an agency shall be
construed to extend no further than implementing or interpreting
the specific powers and duties conferred by the enabling statute
by the same statute.

Section 5. Paragraph (1) of subsection (1), paragraphs (a),
(c), and (e) of subsection (3), paragraph (a) of subsection (4),
and subsection (7) of section 120.54, Florida Statutes, are
amended, and paragraph (k) is added to subsection (1) of that
section, to read:

120.54 Rulemaking.--

(1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN
(i)1. A rule may incorporate material by reference but only as the material exists on the date the rule is adopted. For purposes of the rule, changes in the material are not effective unless the rule is amended to incorporate the changes.

2. An agency rule that incorporates by specific reference another rule of that agency automatically incorporates subsequent amendments to the referenced rule unless a contrary intent is clearly indicated in the referencing rule. A notice of amendments to a rule that has been incorporated by specific reference in other rules of that agency must explain the effect of those amendments on the referencing rules.

3. In rules adopted after December 31, 2010, material may not be incorporated by reference unless:

   a. The material has been submitted in the prescribed electronic format to the Department of State and the full text of the material can be made available for free public access through an electronic hyperlink from the rule making the reference in the Florida Administrative Code; or

   b. The agency has determined that posting the material on the Internet for purposes of public examination and inspection would constitute a violation of federal copyright law, in which case a statement to that effect, along with the address of locations at the Department of State and the agency at which the material is available for public inspection and examination, must be included in the notice required by subparagraph (3)(a).

4. A rule may not be amended by reference only. Amendments must set out the amended rule in full in the same manner as required by the State Constitution for laws. The Department of

5. In adopting a rule that incorporates a rule of another state agency by reference the rule adopting agency shall notify the other agency of the incorporation. A notice of amendment to a rule incorporated by reference notifies the other agency of the incorporation. A rule adopting agency shall notify the other agency of the incorporation.

6. The Department of State may adopt by rule requirements for incorporating material by reference pursuant to this paragraph.

No contrary provision in this section, when an adopted rule of the Department of Environmental Protection or a water management district is incorporated by reference in the other agency's rule to implement a provision of part IV of chapter 373, subsequent amendments to the rule are not effective as to the incorporating rule unless the agency incorporating by reference notifies the committee and the Department of State of its intent to adopt the subsequent amendment, publishes notice of such intent in the Florida Administrative Weekly, and files with the Department of State a copy of the amended rule incorporated by reference. Changes in the rule incorporated by reference are effective as to the other agency 20 days after the date of the published notice and filing with the Department of State. The Department of State shall amend the history note of the incorporating rule to show the effective date of such change. Any substantially affected person may, within 14 days after the date of publication of the notice of intent in the Florida Administrative Weekly, file an objection to rulemaking with the agency. The objection shall specify the portions of the rule incorporated by reference to which the person objects and the reasons for the objection. The agency shall not have the authority under this subparagraph to adopt those portions of the rule specified in such objection. The agency shall publish notice of the objection and of its action in response in the next available issue of the Florida Administrative Weekly.
for incorporating materials pursuant to this paragraph.

(x) An agency head may delegate the authority to initiate
rule development under subsection (2); however, rulemaking
responsibilities of an agency head under subparagraph (3)(e)1.,
subparagraph (3)(e)1., or subparagraph (3)(e)6. may not be
delegated or transferred.

(3) ADOPTION PROCEDURES.--

(a) Notices.--

1. Prior to the adoption, amendment, or repeal of any rule
other than an emergency rule, an agency, upon approval of the
agency head, shall give notice of its intended action, setting
forth a short, plain explanation of the purpose and effect of the
proposed action; the full text of the proposed rule or amendment
and a summary thereof; a reference to the grant of specific
rulemaking authority pursuant to which the rule is adopted; and a
reference to the section or subsection of the Florida Statutes or
the Laws of Florida being implemented or, interpreted, or made
specific. The notice must:

include a summary of the agency's
statement of the estimated regulatory costs, if one has been
prepared, based on the factors set forth in s. 120.541(2), and a
statement that any person who wishes to provide the agency with
information regarding the statement of estimated regulatory
costs, or to provide a proposal for a lower cost regulatory
alternative as provided by s. 120.541(1), must do so in writing
within 21 days after publication of the notice. The notice must
state the procedure for requesting a public hearing on the
proposed rule. Except when the intended action is the repeal of a
rule, the notice must:

including a reference both to the date
and to the place where the notice of rule development
that is required by subsection (2) appeared.

2. The notice shall be published in the Florida
Administrative Weekly not less than 28 days prior to the intended
action. The proposed rule shall be available for inspection and
抄 by the public at the time of the publication of notice.

3. The notice shall be mailed to all persons named in the
proposed rule and to all persons who, at least 14 days prior to
such mailing, have made requests of the agency for advance notice
of its proceedings. The agency shall also give such notice as is
prescribed by rule to those particular classes of persons to whom
the intended action is directed.

4. The adopting agency shall file with the committee, at
least 21 days prior to the proposed adoption date, a copy of each
rule it proposes to adopt; a copy of any material incorporated by
reference in the rule; a detailed written statement of the facts
and circumstances justifying the proposed rule; a copy of any
statement of estimated regulatory costs that has been prepared
pursuant to s. 120.541; a statement of the extent to which the
proposed rule relates to federal standards or rules on the same
subject; and the notice required by subparagraph 1.

(c) Hearings.--

1. If the intended action concerns any rule other than one
relating exclusively to procedure or practice, the agency shall,
on the request of any affected person received within 21 days
after the date of publication of the notice of intended agency
action, give affected persons an opportunity to present evidence
and argument on all issues under consideration. The agency may
schedule a public hearing on the rule and, if requested by any
affected person, shall schedule a public hearing on the rule.
291. the agency head is a board or other collegial body created under
292. s. 20.165(4) or s. 20.43(3)(g), and one or more requested public
293. hearings is scheduled, the board or other collegial body shall
294. conduct at least one of the public hearings itself and may not
295. delegate this responsibility without the consent of those persons
296. requesting the public hearing. Any material pertinent to the
297. issues under consideration submitted to the agency within 21 days
298. after the date of publication of the notice or submitted at a
299. public hearing shall be considered by the agency and made a part
300. of the record of the rulemaking proceeding.

2. Rulemaking proceedings shall be governed solely by the
301. provisions of this section unless a person timely asserts that
302. the person's substantial interests will be affected in the
303. proceeding and affirmatively demonstrates to the agency that the
304. proceeding does not provide adequate opportunity to protect those
305. interests. If the agency determines that the rulemaking
306. proceeding is not adequate to protect the person's interests, it
307. shall suspend the rulemaking proceeding and convene a separate
308. proceeding under the provisions of ss. 120.569 and 120.57.
309. Similarly situated persons may be requested to join and
310. participate in the separate proceeding. Upon conclusion of the
311. separate proceeding, the rulemaking proceeding shall be resumed.
312. (e) Filing for final adoption; effective date.--
313. 1. If the adopting agency is required to publish its rules
314. in the Florida Administrative Code, the agency, upon approval of
315. the agency head, shall file with the Department of State three
certified copies of the rule it proposes to adopt; one copy of
316. any material incorporated by reference in the rule, certified by
317. the agency; a summary of the rule; a summary of any hearings

Page 11 of 46
CODING: Words deleted are deletions; words underlined are additions.
administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete.

3. At the time a rule is filed, the agency shall certify that the time limitations prescribed by this paragraph have been complied with, that all statutory rulemaking requirements have been met, and that there is no administrative determination pending on the rule.

4. At the time a rule is filed, the committee shall certify whether the agency has responded in writing to all material and timely written comments or written inquiries made on behalf of the committee. The department shall reject any rule that is not filed within the prescribed time limits; that does not comply with all statutory rulemaking requirements and rules of the department; upon which an agency has not responded in writing to all material and timely written inquiries or written comments; upon which an administrative determination is pending; or which does not include a statement of estimated regulatory costs, if required.

5. If a rule has not been adopted within the time limits imposed by this paragraph or has not been adopted in compliance with all statutory rulemaking requirements, the agency proposing the rule shall withdraw the rule and give notice of its action in the next available issue of the Florida Administrative Weekly.

6. The proposed rule shall be adopted on being filed with the Department of State and become effective 20 days after being filed, on a later date specified in the rule, or on a date required by statute. Rules not required to be filed with the Department of State shall become effective when adopted by the agency head or on a later date specified by rule or statute. If the committee notifies an agency that an objection to a rule is being considered, the agency may postpone the adoption of the rule to accommodate review of the rule by the committee. When an agency postpones adoption of a rule to accommodate review by the committee, the 90-day period for filing the rule is tolled until the committee notifies the agency that it has completed its review of the rule.

For the purposes of this paragraph, the term "administrative determination" does not include subsequent judicial review.

(4) EMERGENCY RULES.--

(a) If an agency finds that an immediate danger to the public health, safety, or welfare requires emergency action, the agency may adopt any rule necessitated by the immediate danger.

The agency may adopt a rule by any procedure which is fair under the circumstances if:

1. The procedure provides at least the procedural protection given by other statutes, the State Constitution, or the United States Constitution.

2. The agency takes only that action necessary to protect the public interest under the emergency procedure.

3. The agency publishes in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances. In any event, notice of emergency rules, other than those of educational units or units of government with jurisdiction in only one or a part of one county, including the full text of the rules, shall be published in the first available
issue of the Florida Administrative Weekly and provided to the
committee along with any material incorporated by reference in
the rules. The agency's findings of immediate danger, necessity,
and procedural fairness shall be judicially reviewable.

(7) PETITION TO INITIATE RULEMAKING.--
(a) Any person regulated by an agency or having substantial
interest in an agency rule may petition an agency to adopt,
and amend, or repeal a rule or to provide the minimum public
information required by this chapter. The petition shall specify
the proposed rule and action requested. Not later than 30
calendar days following the date of filing a petition, the agency
shall initiate rulemaking proceedings under this chapter,
otherwise comply with the requested action, or deny the petition
with a written statement of its reasons for the denial.
(b) If the petition filed under this subsection is directed
to an unadopted existing rule which the agency has not adopted by
the rulemaking procedures or requirements set forth in this
chapter, the agency shall, not later than 30 days following the
date of filing a petition, initiate rulemaking, or provide notice
in the Florida Administrative Weekly that the agency will hold a
public hearing on the petition within 30 days after publication
of the notice. The purpose of the public hearing is to consider
the comments of the public directed to the agency rule which has
not been adopted by the rulemaking procedures or requirements of
this chapter, its scope and application, and to consider whether
the public interest is served adequately by the application of
the rule on a case-by-case basis, as contrasted with its adoption
by the rulemaking procedures or requirements set forth in this
chapter.

(c) Within 30 days following the public hearing provided
for by paragraph (b), if the agency does not initiate rulemaking
or otherwise comply with the requested action, the agency shall
publish in the Florida Administrative Weekly a statement of its
reasons for not initiating rulemaking or otherwise complying with
the requested action, and of any changes it will make in the
scope or application of the unadopted rule. The agency shall file
the statement with the committee. The committee shall forward a
copy of the statement to the substantive committee with primary
oversight jurisdiction of the agency in each house of the
Legislature. The committee or the committee with primary
oversight jurisdiction may hold a hearing directed to the
statement of the agency. The committee holding the hearing may
recommend to the Legislature the introduction of legislation
making the rule a statutory standard or limiting or otherwise
modifying the authority of the agency.

Section 6. Effective January 1, 2009, paragraph (a) of
subsection (1) of section 120.54, Florida Statutes, is amended to
read:

120.54 Rulemaking.--
(1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN
EMERGENCY RULES.--
(a) Rulemaking is not a matter of agency discretion. Each
agency statement defined as a rule by s. 120.52 shall be adopted
by the rulemaking procedure provided by this section as soon as
feasible and practicable.
1. Rulemaking shall be presumed feasible unless the agency
proves that:
   a. The agency has not had sufficient time to acquire the
knowledge and experience reasonably necessary to address a
statement by rulemaking;

b. Related matters are not sufficiently resolved to enable
the agency to address a statement by rulemaking; or

c. The agency is currently using the rulemaking procedure
expeditiously and in good faith to adopt rules which address the
statement.

2. Rulemaking shall be presumed practicable to the extent
necessary to provide fair notice to affected persons of relevant
agency procedures and applicable principles, criteria, or
standards for agency decisions unless the agency proves that:

a. Detail or precision in the establishment of principles,
criteria, or standards for agency decisions is not reasonable
under the circumstances; or

b. The particular questions addressed are of such a narrow
scope that more specific resolution of the matter is impractical
outside of an adjudication to determine the substantial interests
of a party based on individual circumstances.

Section 7. Section 120.545, Florida Statutes, is amended to
read:

120.545 Committee review of agency rules.--
(1) As a legislative check on legislatively created
authority, the committee shall examine each proposed rule, except
for those proposed rules exempted by s. 120.81(1)(e) and (2), and
its accompanying material, and each emergency rule, and may
examine any existing rule, for the purpose of determining
whether:

(a) The rule is an invalid exercise of delegated
legislative authority.

(b) The statutory authority for the rule has been repealed.

(c) The rule reiterates or paraphrases statutory material.

(d) The rule is in proper form.

(e) The notice given prior to its adoption was sufficient
to give adequate notice of the purpose and effect of the rule.

(f) The rule is consistent with expressed legislative
intent pertaining to the specific provisions of law which the
rule implements.

(g) The rule is necessary to accomplish the apparent or
expressed objectives of the specific provision of law which the
rule implements.

(h) The rule is a reasonable implementation of the law as
it affects the convenience of the general public or persons
particularly affected by the rule.

(i) The rule could be made less complex or more easily
comprehensible to the general public.

(j) The rule's statement of estimated regulatory costs
complies with the requirements of s. 120.541 and whether the rule
does not impose regulatory costs on the regulated person, county,
or city which could be reduced by the adoption of less costly
alternatives that substantially accomplish the statutory
objectives.

(k) The rule will require additional appropriations.

(l) If the rule is an emergency rule, there exists an
emergency justifying the adoption promulgation of such rule, the
agency is within the scope of its statutory
authority, and the rule was adopted promulgated in compliance
with the requirements and limitations of s. 120.54(4).

(2) The committee may request from an agency such
information as is reasonably necessary for examination of a rule
as required by subsection (1). The committee shall consult with
legislative standing committees having jurisdiction over the
subject areas. If the committee objects to an emergency rule or a
proposed or existing rule, the committee shall, within 5 days
after the objection, certify that fact to the agency whose
rule has been examined and include with the certification a
statement detailing its objections with particularity. The
committee shall notify the Speaker of the House of
Representatives and the President of the Senate of any objection
to an agency rule concurrent with certification of that fact to
the agency. Such notice shall include a copy of the rule and the
statement detailing the committee's objections to the rule.

(3) Within 30 days after receipt of the objection, if
the agency is headed by an individual, or within 45 days after receipt of the objection, if the agency is headed by a collegial
body, the agency shall:

(a) If the rule is not yet in effect a proposed rule:
1. File notice pursuant to s. 120.54(3)(d) of only such
modifications as are necessary to address the committee's objection;
2. File notice pursuant to s. 120.54(3)(d) of withdrawal of
the rule in its entirety; or
3. Notify the committee in writing that it refuses

(b) If the rule is in effect an existing rule:
1. File notice pursuant to s. 120.54(3)(a), without prior
notice of rule development, notify the committee that it has
elected to amend the rule to address the committee's

objection and initiate the amendment procedure;
2. File notice pursuant to s. 120.54(3)(a) notify the
committee that it has elected to repeal the rule and initiate the
repeal procedure; or
3. Notify the committee in writing that the agency
refuses to amend or repeal the rule.

(c) If the rule is either an existing or a proposed rule
and the objection is to the statement of estimated regulatory
costs:
1. Prepare a corrected statement of estimated regulatory
costs, give notice of the availability of the corrected statement
in the first available issue of the Florida Administrative
Weekly, and file a copy of the corrected statement with the
committee; or
2. Notify the committee that it refuses to prepare a
corrected statement of estimated regulatory costs.

4. If the agency elects to modify a proposed rule to meet
the committee's objection, it shall make any such modifications
as are necessary to meet the objection and shall resubmit the
rule to the committee. The agency shall give notice of its
election to modify a proposed rule to meet the committee's
objection by publishing a notice of change in the first available
issue of the Florida Administrative Weekly, but shall not be
required to conduct a public hearing. If the agency elects to
amend an existing rule to meet the committee's objection, it
shall notify the committee in writing and shall initiate the
amendment procedure by giving notice in the next available issue
of the Florida Administrative Weekly. The committee shall give
priority to rules so modified or amended when setting its agenda.
(5) If the agency elects to withdraw a proposed rule as a result of a committee objection, it shall notify committee in writing of its election and shall notify the committee in writing of its election and shall withdraw in the next available issue of the Florida Administrative Weekly. The rule shall be withdrawn without a public hearing, effective upon publication of the notice in the Florida Administrative Weekly. If the agency elects to repeal an existing rule as a result of a committee objection, it shall notify the committee in writing of its election and shall initiate rulemaking procedures for that purpose by giving notice in the next available issue of the Florida Administrative Weekly.

(6) If the agency elects to amend or repeal an existing rule as a result of a committee objection, it shall complete the process within 90 days after giving notice in the Florida Administrative Weekly.

(4) Failure of the agency to respond to a committee objection to a proposed rule that is not yet in effect within the time prescribed in subsection (3) constitutes a refusal to amend or repeal the rule.

(6) Failure of the agency to respond to a committee objection to a statement of estimated regulatory costs within the time prescribed in subsection (3) constitutes a refusal to prepare a corrected statement of estimated regulatory costs.

(7) If the committee objects to a proposed or existing rule and the agency refuses to modify, amend, withdraw, or repeal the rule, the committee shall file with the Department of State a notice of the objection, detailing with particularity the committee's objection to the rule. The Department of State shall publish this notice in the Florida Administrative Weekly.

If the rule is published and shall publish, so a history note to the rule in the Florida Administrative Code, a reference to the committee's objection and to the issue of the Florida Administrative Weekly in which the full text thereof appears shall be recorded in a history note.

(8)(a) If the committee objects to a proposed or existing rule, or portion of a rule thereof, and the agency fails to initiate administrative action to modify, amend, withdraw, or repeal the rule consistent with the objection within 60 days after the objection, or thereafter fails to proceed in good faith to complete such action, the committee may submit to the President of the Senate and the Speaker of the House of Representatives a recommendation that legislation be introduced to address the committee's objection modify or suspend the adoption of the proposed rule, or amend or repeal the rule, or portion thereof.

(b)1. If the committee votes to recommend the introduction
of legislation to address the committee's objection or to suspend the adoption of a proposed rule, or amend or repeal a rule, the committee shall, within 5 days after this determination, certify that fact to the agency whose rule or proposed rule has been examined. The committee may request that the agency temporarily suspend the rule or suspend the adoption of the proposed rule, pending consideration of proposed legislation during the next regular session of the Legislature.

2. Within 30 days after receipt of the certification, if the agency is headed by an individual, or within 45 days after receipt of the certification, if the agency is headed by a collegial body, the agency shall either:

a. Temporarily suspend the rule or suspend the adoption of the proposed rule; or
b. Notify the committee in writing that the agency does not refuse to temporarily suspend the rule or suspend the adoption of the proposed rule.

3. If the agency elects to temporarily suspend the rule or suspend the adoption of the proposed rule, the agency shall give notice of the suspension in the Florida Administrative Weekly. The rule or the rule adoption process shall be suspended upon publication of the notice. An agency may not base any agency action on a suspended rule or suspended proposed rule, or portion of such rule thereof, prior to expiration of the suspension. A suspended rule or suspended proposed rule, or portion of such rule thereof, continues to be subject to administrative determination and judicial review as provided by law.

4. Failure of an agency to respond to committee certification within the time prescribed by subparagraph 2 constitutes a refusal to suspend the rule or to suspend the adoption of the proposed rule.

(c) The committee shall prepare proposed legislation to address the committee's objection or suspend the adoption of the proposed rule or amend or repeal the rule, or portion thereof, in accordance with the rules of the Senate and the House of Representatives for prefiling and introduction in the next regular session of the Legislature. The proposed legislation shall be presented to the President of the Senate and the Speaker of the House of Representatives with the committee recommendation.

(d) If proposed legislation addressing the committee's objection or a bill to suspend the adoption of a proposed rule is enacted into law, the proposed rule is suspended until specific delegated legislative authority for the proposed rule has been enacted. If a bill to suspend the adoption of a proposed rule fails to become law, any temporary agency suspension of the rule shall expire. If a bill to modify a proposed rule or amend a rule is enacted into law, the suspension shall expire upon publication of notice of modification or amendment in the Florida Administrative Weekly. If a bill to repeal a rule is enacted into law, the suspension shall remain in effect until notification of repeal of the rule is published in the Florida Administrative Weekly.

(e) The Department of State shall publish in the next available issue of the Florida Administrative Weekly the final legislative action taken. If a bill to modify or suspend the adoption of the proposed rule or amend or repeal the rule, or
portion thereof, is enacted into law, the Department of State shall confer the rule or portion of the rule to the provisions of the law in the Florida Administrative Code and publish a reference to the law as a history note to the rule.

Section 8. Paragraphs (a) and (d) of subsection (1) and subsection (5) of section 120.55, Florida Statutes, are amended to read:

120.55 Publication.--

(a) The Department of State shall:

1. Through a continuous revision system, compile and publish the "Florida Administrative Code." The Florida Administrative Code shall contain all rules adopted by each agency, citing the grant of specific rulemaking authority and the specific law implemented pursuant to which each rule was adopted, and complete indexes to all rules contained in the code.

Supplementation shall be made as often as practicable, but at least monthly. The department may contract with a publishing firm for the publication, in a timely and useful form, of the Florida Administrative Code; however, the department shall retain responsibility for the code as provided in this section. This publication shall be the official compilation of the administrative rules of this state. The Department of State shall retain the copyright over the Florida Administrative Code.

2. Rules general in form but applicable to only one school district, community college district, or county, or a part thereof, or state university rules relating to internal personnel or business and finance shall not be published in the Florida Administrative Code. Exclusion from publication in the Florida Administrative Code shall not affect the validity or effectiveness of such rules.

3. At the beginning of the section of the code dealing with an agency that files copies of its rules with the department, the department shall publish the address and telephone number of the executive offices of each agency, the manner in which the agency indexes its rules, a listing of all rules of that agency excluded from publication in the code, and a statement as to where those rules may be inspected.

4. Forms shall not be published in the Florida Administrative Code; but any form which an agency uses in its dealings with the public, along with any accompanying instructions, shall be filed with the committee before it is used. Any form or instruction which meets the definition of "rule" provided in s. 120.52 shall be incorporated by reference into the appropriate rule. The reference shall specifically state that the form is being incorporated by reference and shall include the number, title, and effective date of the form and an explanation of how the form may be obtained. Each form created by an agency which is incorporated by reference in a rule notice of which is given under s. 120.54(3)(a) after December 31, 2007, must clearly display the number, title, and effective date of the form and the number of the rule in which the form is incorporated.

(d) Prescribe by rule the style and form required for rules, notices, and other materials submitted for filing and establish the form for their certification.

(5) Any publication of a proposed rule promulgated by an agency, whether published in the Florida Administrative Code or
elsewhere, shall include, along with the rule, the name of the
person or persons originating such rule, the name of the agency
head supervising or person who approved the rule, and the date
upon which the rule was approved.

Section 9. Effective July 1, 2010, paragraph (a) of
subsection (1) and subsection (2) of section 120.55, Florida
Statutes, as amended by this act, are amended to read:

120.55 Publication.--
(a)1. Through a continuous revision system, compile and
publish electronically, on an Internet website managed by the
department, the "Florida Administrative Code." The Florida
Administrative Code shall contain all rules adopted by each
agency, citing the grant of rulemaking authority and the specific
law implemented pursuant to which each rule was adopted, all
history notes as authorized in s. 120.545(8), and complete
indexes to all rules contained in the code, and any other
material required or authorized by law or deemed useful by the
department. The electronic code shall display each rule chapter
currently in effect in browse mode and allow full text search of
the code and each rule chapter. Supplementation shall be made as
often as practicable, but at least monthly. The department shall
publish a printed version of the Florida Administrative Code and
may contract with a publishing firm for such printed the
publication in a timely and useful form of the Florida
Administrative Code; however, the department shall retain
responsibility for the code as provided in this section.

Supplementation of the printed code shall be made as often as
practicable, but at least monthly. The printed This publication
shall be the official compilation of the administrative rules of
this state. The Department of State shall retain the copyright
over the Florida Administrative Code.

2. Rules general in form but applicable to only one school
district, community college district, or county, or a part
thereof, or state university rules relating to internal personnel
or business and finance shall not be published in the Florida
Administrative Code. Exclusion from publication in the Florida
Administrative Code shall not affect the validity or
effectiveness of such rules.

3. At the beginning of the section of the code dealing with
an agency that files copies of its rules with the department, the
department shall publish the address and telephone number of the
executive offices of each agency, the manner by which the agency
indexes its rules, a listing of all rules of that agency excluded
from publication in the code, and a statement as to where those
rules may be inspected.

4. Forms shall not be published in the Florida
Administrative Code; but any form which an agency uses in its
dealings with the public, along with any accompanying
instructions, shall be filed with the committee before it is
used. Any form or instruction which meets the definition of
"rule" provided in s. 120.52 shall be incorporated by reference
into the appropriate rule. The reference shall specifically state
that the form is being incorporated by reference and shall
include the number, title, and effective date of the form and an
explanation of how the form may be obtained. Each form created by
an agency which is incorporated by reference in a rule notice of
which is given under s. 120.54(3)(a) after December 31, 2007,
must clearly display the number, title, and effective date of the
form and the number of the rule in which the form is
incorporated.

5. The department shall allow material incorporated by
reference to be filed in electronic form as prescribed by
department rule. When a rule is filed for adoption with
incorporation material in electronic form, the department's
publication of the Florida Administrative Code on its Internet
website must contain a hyperlink from the incorporating reference
in the rule directly to that material. The department may not
allow hyperlinks from rules in the Florida Administrative Code to
any material other than that filed with and maintained by the
department, but may allow hyperlinks to incorporated material
maintained by the department from the adopting agency's website
or other sites.

(2) The Florida Administrative Weekly Internet website must
allow users to:

(a) Search for notices by type, publication date, rule
number, word, subject, and agency;

(b) Search a database that makes available all notices
published on the website for a period of at least 5 years;

(c) Subscribe to an automated e-mail notification of
selected notices to be sent out before or concurrently with
weekly publication of the printed and electronic Florida
Administrative Weekly. Such notification must include in the text
of the e-mail a summary of the content of each notice;

(d) View agency forms and other materials submitted to the
department in electronic form and incorporated by reference in
proposed rules; and

(e) Comment on proposed rules.

Section 10. Paragraphs (a) and (b) of subsection (2) of
section 120.56, Florida Statutes, are amended to read:
120.56 Challenges to rules.--
(2) CHALLENGING PROPOSED RULES; SPECIAL PROVISIONS.--
(a) Any substantially affected person may seek an
administrative determination of the invalidity of any proposed
rule by filing a petition seeking such a determination with the
division within 21 days after the date of publication of the
notice required by s. 120.54(3)(e), within 10 days after the
final public hearing is held on the proposed rule as provided by
s. 120.54(3)(e)2., or 120.54(3)1.e., within 20 days after the
preparation of a statement of estimated regulatory costs required
pursuant to s. 120.541, if applicable, has been provided to all
persons who submitted a lower cost regulatory alternative and
made available to the public, or within 20 days after the date of
publication of the notice required by s. 120.54(3)(d). The
petition shall state with particularity the objections to the
proposed rule and the reasons that the proposed rule is an
invalid exercise of delegated legislative authority. The
petitioner has the burden of going forward. The agency then has
the burden to prove by a preponderance of the evidence that the
proposed rule is not an invalid exercise of delegated legislative
authority as to the objections raised. Any person who is
substantially affected by a change in the proposed rule may seek
a determination of the validity of such change. Any person not
substantially affected by the proposed rule as initially noticed,
but who is substantially affected by the rule as a result of a
change, may challenge any provision of the rule and is not
limited to challenging the change to the proposed rule.
(b) The administrative law judge may declare the proposed rule wholly or partly invalid. Unless the decision of the administrative law judge is reversed on appeal, the proposed rule or provision of a proposed rule declared invalid shall not be adopted. After a petition for administrative determination has been filed however, the agency may proceed with all other steps in the rulemaking process, including the holding of a factfinding hearing. In the event part of a proposed rule is declared invalid, the adopting agency may, in its sole discretion, withdraw the proposed rule in its entirety. The agency whose proposed rule has been declared invalid in whole or part shall give notice of the decision in the first available issue of the Florida Administrative Weekly.

Section 11. Effective January 1, 2009, subsection (4) of section 120.56, Florida Statutes, is amended to read:

120.56 Challenges to rules.--
(4) CHALLENGING AGENCY STATEMENTS DEFINED AS RULES; SPECIAL PROVISIONS.--
(a) Any person substantially affected by an agency statement may seek an administrative determination that the statement violates s. 120.54(1)(a). The petition shall include the text of the statement or a description of the statement and shall state with particularity facts sufficient to show that the statement constitutes a rule under s. 120.52 and that the agency has not adopted the statement by the rulemaking procedure provided by s. 120.54.
(b) The administrative law judge may extend the hearing date beyond 30 days after assignment of the case for good cause.

Upon notification to the administrative law judge provided before the final hearing that the agency has published a notice of rulemaking under s. 120.54(3), such notice shall automatically operate as a stay of proceedings pending adoption of the statement as a rule. The administrative law judge may vacate the stay for good cause shown. A stay of proceedings pending rulemaking shall remain in effect so long as the agency is proceeding expeditiously and in good faith to adopt the statement as a rule. If a hearing is held and the petitioner proves the allegations of the petition, the agency shall have the burden of proving that rulemaking is not feasible or not economically practicable under s. 120.54(1)(a).
(c) The administrative law judge may determine whether all or part of a statement violates s. 120.54(1)(a). The decision of the administrative law judge shall constitute a final order. The division shall transmit a copy of the final order to the Department of State and the committee. The Department of State shall publish notice of the final order in the first available issue of the Florida Administrative Weekly.
(d) If when an administrative law judge enters a final order that all or part of an agency statement violates s. 120.54(1)(a), the agency shall immediately discontinue all reliance upon the statement or any substantially similar statement as a basis for agency action. This paragraph shall not be construed to impair the obligation of contracts existing at the time the final order is entered.

(2) If, prior to a final hearing to determine whether all or part of an agency statement violates s. 120.54(1)(a), an agency publishes, pursuant to s. 120.54(3)(a), proposed rules...
4. If an agency fails to adopt rules that address the statement within 180 days after publishing proposed rules, for purposes of this subsection, a presumption is created that the agency is not acting expeditiously and in good faith to adopt rules. If the agency's proposed rules are challenged pursuant to subsection (2), the 180-day period for adoption of rules is tolled until a final order is entered in that proceeding.

(e) If the proposed rules addressing the challenged statement are determined to be an invalid exercise of delegated legislative authority as defined in s. 120.52(8)(b)-(f), the agency must immediately discontinue reliance on the statement and any substantially similar statement until the rules addressing the subject are properly adopted, and the administrative law judge shall enter a final order to that effect.

(f) All proceedings to determine a violation of s. 120.54(1)(a) shall be brought pursuant to this subsection. A proceeding pursuant to this subsection may be consolidated with a proceeding under subsection (3) or under any other section of this chapter. Nothing in this paragraph does not shall be construed to prevent a party whose substantial interests have been determined by an agency action from bringing a proceeding pursuant to s. 120.57(1) (e).

Section 12. Effective January 1, 2009, paragraph (e) of subsection (1) of section 120.57, Florida Statutes, is amended to read:

120.57 Additional procedures for particular cases.—
(1) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS INVOLVING DISPUTED ISSUES OF MATERIAL FACT.—
(e) 1. An agency or an administrative law judge may not base...
Any agency action that determines the substantial interests of a party shall be based on an unadopted rule. The administrative law judge shall determine whether the agency statement constitutes an unadopted rule. This subparagraph does not preclude application of adopted rules and applicable provisions of law to the facts. The unadopted rule is subject to de novo review by an administrative law judge.

2. Notwithstanding subparagraph 1., if an agency demonstrates that the statute being implemented directs it to adopt rules, that the agency has not had time to adopt those rules because the requirement was so recently enacted, and that the agency has initiated rulemaking and is proceeding expeditiously and in good faith to adopt the required rules, then the agency’s action may be based upon those unadopted rules, subject to de novo review by the administrative law judge. The agency action shall not be presumed valid or invalid. The agency must demonstrate that the unadopted rule:

a. Is within the powers, functions, and duties delegated by the Legislature or, if the agency is operating pursuant to authority derived from the State Constitution, is within that authority;

b. Does not enlarge, modify, or contravene the specific provisions of law implemented;

c. Is not vague, establishes adequate standards for agency decisions, or does not vest unbridled discretion in the agency;

d. Is not arbitrary or capricious. A rule is arbitrary if it is not supported by logic or the necessary facts; a rule is capricious if it is adopted without thought or reason or is irrational;

e. Is not being applied to the substantially affected party without due notice; and

f. Does not impose excessive regulatory costs on the regulated person, county, or city.

3. The recommended and final orders in any proceeding shall be governed by the provisions of paragraphs (k) and (l), except that the administrative law judge’s determination regarding the unadopted rule under subparagraph 1. or 2. shall not be rejected by the agency unless the agency first determines from a review of the complete record, and states with particularity in the order, that such determination is clearly erroneous or does not comply with essential requirements of law. In any proceeding for review under s. 120.68, if the court finds that the agency’s rejection of the determination regarding the unadopted rule does not comport with the provisions of this subparagraph, the agency action shall be set aside and the court shall award to the prevailing party the reasonable costs and a reasonable attorney’s fee for the initial proceeding and the proceeding for review.

Section 13. Effective January 1, 2009, subsections (2), (3), and (4) of section 120.595, Florida Statutes, are amended to read:

120.595 Attorney’s fees.—
(2) CHALLENGES TO PROPOSED AGENCY RULES PURSUANT TO SECTION 120.662. —If the appellate court or administrative law judge declares a proposed rule or portion of a proposed rule invalid pursuant to s. 120.56(2), a judgment or order shall be rendered against the agency for reasonable costs and reasonable attorney’s fees, unless the agency demonstrates that its actions were substantially justified or special circumstances exist which
would make the award unjust. An agency's actions are
"substantially justified" if there was a reasonable basis in law
and fact at the time the actions were taken by the agency. If the
agency prevails in the proceedings, the appellate court or
administrative law judge shall award reasonable costs and
reasonable attorney's fees against a party if the appellate court
or administrative law judge determines that a party participated
in the proceedings for an improper purpose as defined by
paragraph (1)(e). No award of attorney's fees as provided by this
subsection shall exceed $50,000 $15,000.

(3) CHALLENGES TO EXISTING AGENCY RULES PURSUANT TO SECTION
120.56(3) AND (5).—If the appellate court or administrative law
judge declares a rule or portion of a rule invalid pursuant to s.
120.56(3) or s. 120.56(5), a judgment or order shall be rendered
against the agency for reasonable costs and reasonable attorney's
fees, unless the agency demonstrates that its actions were
substantially justified or special circumstances exist which
would make the award unjust. An agency's actions are
"substantially justified" if there was a reasonable basis in law
and fact at the time the actions were taken by the agency. If the
agency prevails in the proceedings, the appellate court or
administrative law judge shall award reasonable costs and
reasonable attorney's fees against a party if the appellate court
or administrative law judge determines that a party participated
in the proceedings for an improper purpose as defined by
paragraph (1)(e). No award of attorney's fees as provided by this
subsection shall exceed $50,000 $15,000.

(4) CHALLENGES TO AGENCY ACTION PURSUANT TO SECTION
120.56(4).—

(a) If the appellate court or administrative law judge
determines upon entry of a final order that all or part of an
agency statement violates s. 120.54(1) (a), or that the agency
must immediately discontinue reliance on the statement and any
substantially similar statement pursuant to s. 120.56(4)(e), a
judgment or order shall be entered against the agency for the
administrative law judge shall award reasonable costs and
reasonable attorney's fees to the petitioner, unless the agency
demonstrates that the statement is required by the Federal
Government to implement or retain a delegated or approved program
or to meet a condition to receipt of federal funds.

(b) Upon notification to the administrative law judge
provided before the final hearing that the agency has published a
notice of rulemaking under s. 120.54(3)(a), such notice shall
automatically operate as a stay of proceedings pending
rulemaking. The administrative law judge may vacate the stay for
good cause shown. A stay of proceedings under this paragraph
remains in effect so long as the agency is proceeding
expeditiously and in good faith to adopt the statement as a rule.
The administrative law judge shall award reasonable costs and
reasonable attorney's fees accrued by the petitioner prior to the
date the notice was published, unless the agency proves to the
administrative law judge that it did not know and should not have
known that the statement was an unadopted rule. Attorneys' fees
and costs under paragraphs (a) and (b) shall be awarded only upon
a finding that the agency received notice that the statement may
constitute an unadopted rule at least 30 days before a petition
under s. 120.56(4) was filed and that the agency failed to
publish the required notice of rulemaking pursuant to s.
120.54(3) that addresses the statement within that 30-day period.

Notice to the agency may be satisfied by its receipt of a copy of the s. 120.56(4) petition, a notice or other paper containing substantially the same information, or a petition filed pursuant to s. 120.54(7). An award of attorney’s fees as provided by this paragraph may not exceed $50,000.

[c] Notwithstanding the provisions of chapter 284, an award shall be paid from the budget entity of the secretary, executive director, or equivalent administrative officer of the agency, and the agency shall not be entitled to payment of an award or reimbursement for payment of an award under any provision of law.

(d) If the agency prevails in the proceedings, the appellate court or administrative law judge shall award reasonable costs and attorney’s fees against a party if the appellate court or administrative law judge determines that the party participated in the proceedings for an improper purpose as defined in paragraph (3)(c) or that the party or the party’s attorney knew or should have known that a claim was not supported by the material facts necessary to establish the claim or would not be supported by the application of then-existing law to those material facts.

Section 14. Subsection (1) and paragraph (c) of subsection (2) of section 120.569, Florida Statutes, are amended to read:

120.569 Decisions which affect substantial interests.—
(1) The provisions of this section apply in all proceedings in which the substantial interests of a party are determined by an agency, unless the parties are proceeding under s. 120.573 or s. 120.574. Unless waived by all parties, s. 120.57(1) applies whenever the proceeding involves a disputed issue of material fact. Unless otherwise agreed, s. 120.57(2) applies in all other cases. If a disputed issue of material fact arises during a proceeding under s. 120.57(2), then, unless waived by all parties, the proceeding under s. 120.57(2) shall be terminated and a proceeding under s. 120.57(1) shall be conducted. Parties shall be notified of any order, including a final order. Unless waived, a copy of the order shall be delivered or mailed to each party or the party’s attorney of record at the address of record. Each notice shall inform the recipient of any administrative hearing or judicial review that is available under this section, s. 120.57, or s. 120.68; shall indicate the procedure which must be followed to obtain the hearing or judicial review; and shall state the time limits which apply.

(2) (c) Unless otherwise provided by law, a petition or request for hearing shall include those items required by the uniform rules adopted pursuant to s. 120.54(5)(b) or s. 120.54(5)(b)4. Upon the receipt of a petition or request for hearing, the agency shall carefully review the petition to determine if it contains all of the required information. A petition shall be dismissed if it is not in substantial compliance with these requirements or if it has been untimely filed. Dismissal of a petition shall, at least once, be without prejudice to petitioner’s filing a timely amended petition curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured. The agency shall promptly give written notice to all parties of the action taken on the petition, shall state with particularity its reasons if the petition is not granted, and
shall state the deadline for filing an amended petition if applicable. This paragraph does not eliminate the availability of equitable tolling as a defense to the untimely filing of a petition.

Section 15. Subsection (2) of section 120.74, Florida Statutes, is amended to read:

(2) Beginning October 1, 1997, and by October 1 of every other year thereafter, the head of each agency shall file a report with the President of the Senate, the Speaker of the House of Representatives, and the committee, with a copy to each appropriate standing committee of the Legislature, which certifies that the agency has complied with the requirements of this section subsection. The report must specify any changes made to its rules as a result of the review and, when appropriate, recommend statutory changes that will promote efficiency, reduce paperwork, or decrease costs to government and the private sector. The report must identify the types of cases or disputes in which the agency is involved which should be conducted under the summary hearing process described in s. 120.574.

Section 16. Subsection (11) of section 120.80, Florida Statutes, is amended to read:

(11) NATIONAL GUARD.--Notwithstanding s. 120.52(16) of the enlistment, organization, administration, equipment, maintenance, training, and discipline of the militia, National Guard, organized militia, and unorganized militia, as provided by s. 2, Art. X of the State Constitution, are not rules as defined by this chapter.
1219 foster home or other facility and is not a professional license
1220 of any individual. Receipt of a license under this section shall
1221 not create a property right in the recipient. A license under
1222 this act is a public trust and a privilege, and is not an
1223 entitlement. This privilege must guide the finder of fact or
1224 trier of law at any administrative proceeding or court action
1225 initiated by the department.
1226 Section 19. Paragraph (a) of subsection (1) of section
1227 420.9072, Florida Statutes, is amended to read:
1228 420.9072 State Housing Initiatives Partnership
1229 Program.—The State Housing Initiatives Partnership Program is
1230 created for the purpose of providing funds to counties and
1231 eligible municipalities as an incentive for the creation of local
1232 housing partnerships, to expand production of and preserve
1233 affordable housing, to further the housing element of the local
1234 government comprehensive plan specific to affordable housing, and
1235 to increase housing-related employment.
1236 (1)(a) In addition to the legislative findings set forth in
1237 s. 420.6015, the Legislature finds that affordable housing is
1238 most effectively provided by combining available public and
1239 private resources to conserve and improve existing housing and
1240 provide new housing for very-low-income households, low-income
1241 households, and moderate-income households. The Legislature
1242 intends to encourage partnerships in order to secure the benefits
1243 of cooperation by the public and private sectors and to reduce
1244 the cost of housing for the target group by effectively combining
1245 all available resources and cost-saving measures. The Legislature
1246 further intends that local governments achieve this combination
1247 of resources by encouraging active partnerships between
1248 government, lenders, builders and developers, real estate
1249 professionals, advocates for low-income persons, and community
1250 groups to produce affordable housing and provide related
1251 services. Extending the partnership concept to encompass
1252 cooperative efforts among small counties as defined in s.
1253 120.52(19) and 120.52(17), and among counties and municipalities
1254 is specifically encouraged. Local governments are also intended
1255 to establish an affordable housing advisory committee to
1256 recommend monetary and nonmonetary incentives for affordable
1257 housing as provided in s. 420.9076.
1258 Section 20. Subsection (7) of section 420.9075, Florida
1259 Statutes, is amended to read:
1260 420.9075 Local housing assistance plans; partnerships.—
1261 (7) The moneys deposited in the local housing assistance
1262 trust fund shall be used to administer and implement the local
1263 housing assistance plan. The cost of administering the plan may
1264 not exceed 5 percent of the local housing distribution moneys and
1265 program income deposited into the trust fund. A county or an
1266 eligible municipality may not exceed the 5-percent limitation on
1267 administrative costs, unless its governing body finds, by
1268 resolution, that 5 percent of the local housing distribution plus
1269 5 percent of program income is insufficient to adequately pay the
1270 necessary costs of administering the local housing assistance
1271 plan. The cost of administering the plan may not exceed 10
1272 percent of the local housing distribution plus 5 percent of
1273 program income deposited into the trust fund, except that small
1274 counties, as defined in s. 120.52(19) and 120.52(17), and eligible
1275 municipalities receiving a local housing distribution of up to
$350,000 may use up to 10 percent of program income for administrative costs.

Section 21. For the 2008-2009 fiscal year, the nonrecurring sum of $50,000 is appropriated in lump sum from the Records Management Trust Fund to the Department of State, and for the 2009-2010 fiscal year, the nonrecurring sum of $401,000 is appropriated in lump sum from the Records Management Trust Fund to the Department of State for the purposes of carrying out the provisions of this act requiring the implementation of electronic publications. To cover this nonrecurring cost to implement system modifications, the Department of State shall temporarily increase the space rate charge for publication in the Florida Administrative Weekly. After implementation of the required system changes, the department shall decrease the fee to the 2007-2008 fiscal year level. Funds appropriated shall be held in a lump-sum category, contingent on available cash deposited into the trust fund and derived from the fee increase. Funds collected from the fee increase and not expended by June 30, 2009, may be retained in the trust fund to complete the system implementation as appropriated in the 2009-2010 fiscal year.

Section 22. For the 2008-2009 fiscal year, the Department of State is authorized one additional full-time equivalent position, salary rate of $16,969, and the recurring sum of $22,399 in salaries and benefits from the Records Management Trust Fund for the purpose of handling administrative and system requirements in carrying out the provisions of this act related to electronic publications.

Section 23. Notwithstanding s. 120.55(8)(b), Florida Statutes, on July 1, 2009, the unencumbered balance in the Records Management Trust Fund for fees collected pursuant to chapter 120, Florida Statutes, may not exceed $300,000 plus any funds collected, but not expended, from the fee increase implemented to fund the provisions of this act. By June 30, 2009, any funds in excess of this amount shall be transferred to the General Revenue Fund. This section expires August 1, 2009.

Section 24. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2008.